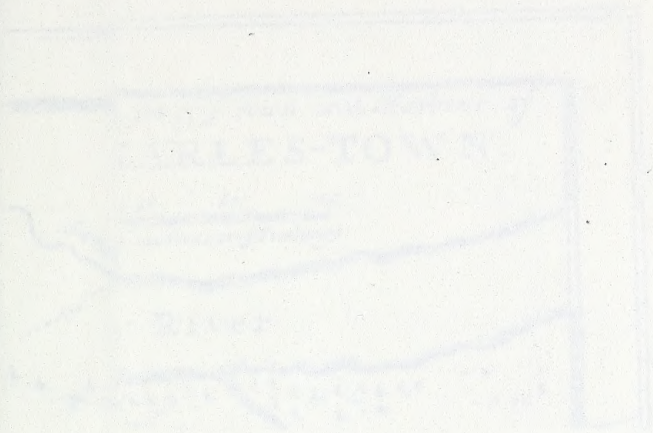
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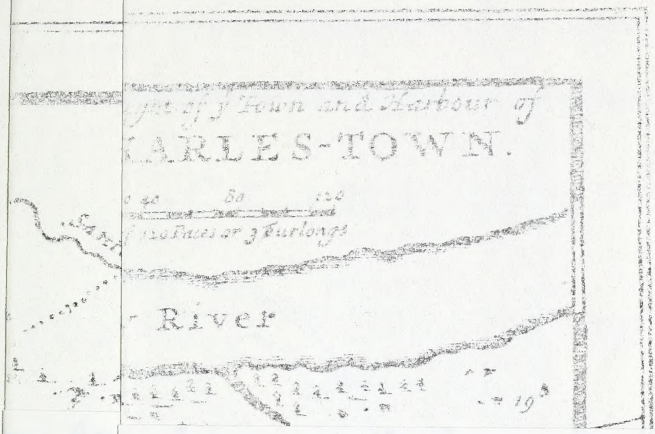


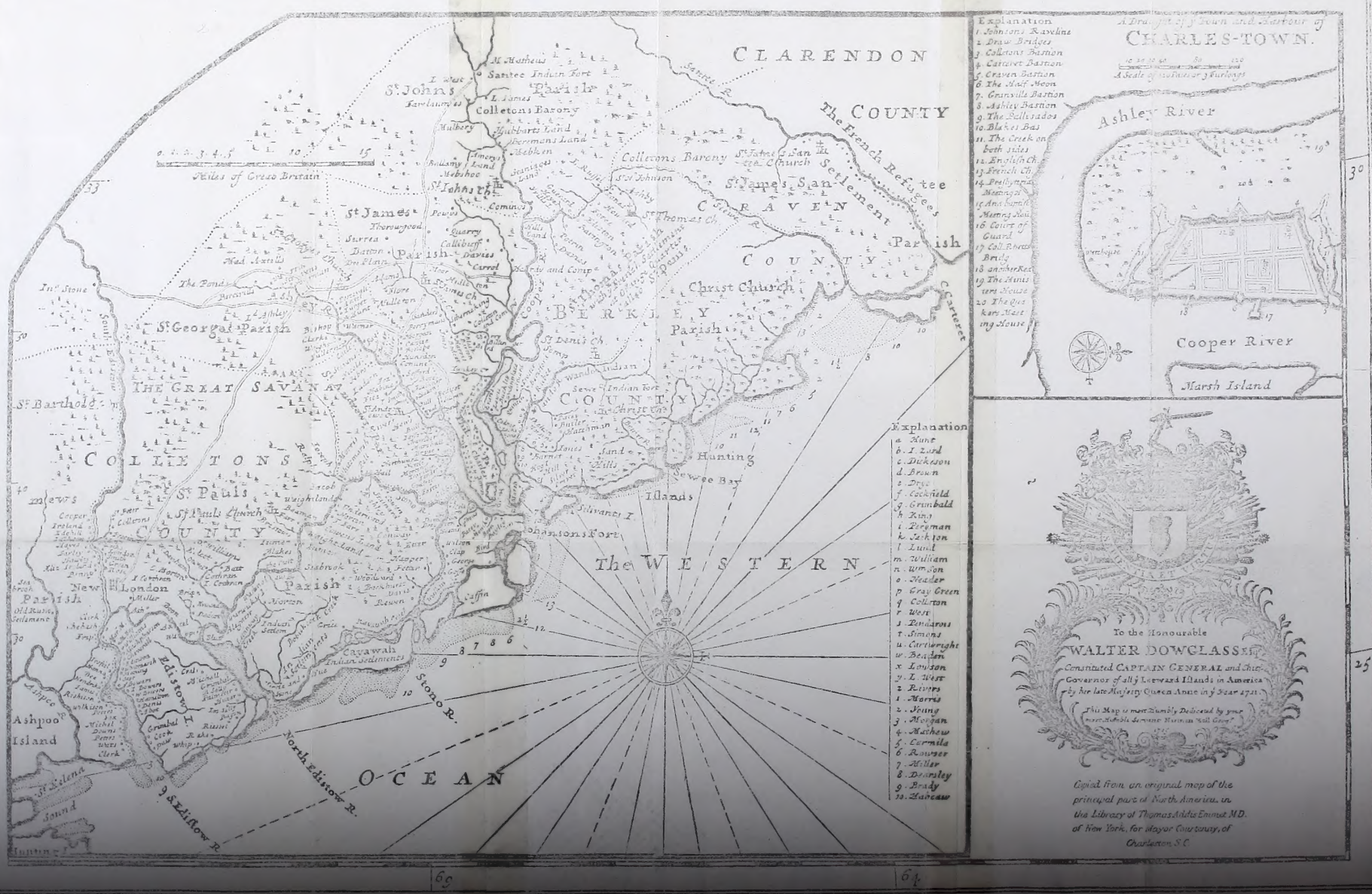
THE HISTORY OF SOUTH CAROLINA

UNDER

THE PROPRIETARY GOVERNMENT

1670–1719


ARLES-TOWN.
River


CLARENDON
COUNTY
The French Refugees Settlement
St Johns Parish
Colletons Barony
St James Santee Parish
GEORGES COUNTY
St James Parish
St Georges Parish
THE GREAT SAVANNAH
COLLETONS COUNTY
St Pauls Parish
New London Parish
BERKLEY COUNTY
Christ Church Parish
Hunting Islands
The WESTERN OCEAN
Ashpoo Island
St Helena Sound
Stono R.
North Edistow R.
South Edistow R.
Explanation
a. Hunt
b. I. Lord
c. Dickeson
d. Brown
e. Drye
f. Cockfield
g. Grimbald
h. King
i. Perryman
k. Jekyll
l. Lunid
m. William
n. Wm son
o. Headen
p. Gray Green
q. Colleton
r. West
s. Bendros
t. Simons
u. Curtwright
w. Beaden
x. Lewson
y. I. West
z. Rivers
1. Morris
2. Young
3. Morgan
4. Mathew
5. Carmila
6. Rowser
7. Miller
8. Dearsley
9. Brady
10. Hancaw
A Draught of y Town and Harbour of CHARLES-TOWN.
A Scale of Statute y Furlongs
Explanation
1. Johnsons Raveline
2. Draw Bridges
3. Colletons Bastion
4. Carteret Bastion
5. Craven Bastion
6. The Half Moon
7. Granville Bastion
8. Ashley Bastion
9. The Bellisados
10. Blakes Bas
11. The Creek on both sides
12. English Ch
13. French Ch
14. Presbyterian Meeting
15. Anabaptist Meeting Hall
16. Court of Guard
17. Coll. Berets Brick
18. another Red
19. The Minister House
20. The Quakers Meeting House
Ashley River
Cooper River
Marsh Island
To the Honourable
WALTER DOWGLASS Esq
Constituted CAPTAIN GENERAL and Chief Governor of all y Leeward Islands in America by her late Majesty Queen Anne in y Year 1711
This Map is most Humbly Dedicated by your most Humble Servant Herman Moll Geog.
Copied from an original map of the principal parts of North America, in the Library of Thomas Addis Emmet M.D. of New York, for Mayor Courtenay, of Charleston S.C



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THE HISTORY

OF

SOUTH CAROLINA

UNDER THE

PROPRIETARY GOVERNMENT

1670-1719

V. I

BY

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OF THE HISTORICAL SOCIETY OF SOUTH CAROLINA

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THE following study of the history of South Carolina has been made amidst the engagements of a busy professional life, in hours snatched from that jealous mistress — the law. It has been a labor of love, and has been undertaken and carried on with the single purpose of learning and telling the story of the State of which the author is proud to be a son and a citizen. In the course of his study, he has found, as he conceives, occasional errors in the works of those who have preceded him; and these he has pointed out. He cannot hope himself to have escaped like mistakes — though he has striven to do so. It will be the duty of those who come after to correct where he has gone astray. He only asks that this shall be done in the spirit of fairness he has endeavored to observe. To his readers in general he would recall the lines of the poet: —

> Whoever thinks a faultless piece to see,
> Thinks what ne'er was, nor is, nor e'er shall be.
> In ev'ry work regard the writer's end,
> Since none can compass more than they intend;
> And if the means be just, the conduct true,
> Applause, in spite of trivial faults, is due.

POPE'S *Essay on Criticism*, 250–260.

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HISTORY OF SOUTH CAROLINA UNDER THE PROPRIETARY GOVERNMENT

INTRODUCTORY CHAPTER

The domain of the United States of America was [illegible] settled by the English under Royal grants, from [illegible] principal points, nearly equidistant from each other: [illegible]town in Virginia, in 1607, Plymouth in Massachusetts, 1620, and Charles Town in Carolina, in 1670. From these points have emanated the differing political thoughts of the country, which have, in the main in parallel lines, accompanied the tide of emigration westward.[1]

Physical causes marked great differences in the development of these settlements, and especially in that of Carolina from the other two. To these physical causes

[1] The extent of emigration from South Carolina is not generally realized. It is not generally known that she was one of the great emigrant States. "Yet from 1820 to 1860," says General Francis A. Walker, in his Introduction to the United States census of 1880, "South Carolina was a beehive from which swarms were continually going forth to populate the newer cotton-growing states of the Southwest." The whole population of the State in 1860 amounted to 470,257. There were then living in other States 161,389 white persons born in South Carolina. That is, two-fifths of the whole native-born population had emigrated and were then living in other States, and these almost entirely in Georgia, Alabama, Mississippi, Louisiana, Florida, and Texas. In 1870 out of 678,796 native-born South Carolinians more than one-third, about 246,000, were living in other States.

others were added which tended to form the society of Carolina upon a basis differing from that of the other colonies; and to produce a people to a considerable degree peculiar in their characteristics.

The colony of Virginia was little further from that of Massachusetts than from that of Carolina; but the territory between Virginia and Massachusetts, already to some extent peopled by the Dutch, was soon filled up by the settlements of the provinces of Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland, forming a chain of colonies linked together by neighboring influences and conveniences, and thus begetting something of a common American colonial sentiment. There was nothing in the situation of the colony of Carolina to produce a similar effect. The colonists at Charles Town, more than three hundred miles south of the James River, were practically much further than that distance from Virginia, the nearest established colony. Hatteras projecting into the ocean rendered communication between the first settlers in Carolina and the other colonies, in their small vessels, more dangerous almost than that with England. The only travel by land between Carolina and Virginia was by Indian trail. There were no roads nor means of transportation. Lederer, the learned German explorer, whom Governor Berkeley sent out from Virginia in 1669 to explore the country, after travelling for months with Indian guides certainly did not reach beyond the Santee — if, indeed, he entered at all the territory of the present State of South Carolina.[1] A postoffice was established in Charles Town as early as 1698, but this was for European and West Indian correspondence. Peter Timothy, postmaster, gives notice in the *Gazette*, August 19, 1756, nearly sixty years after.

[1] *History of No. Ca.* (Hawks), 52.

that the first mail from Wilmington (North Carolina) is hourly expected to arrive here, and will set out on his return two days after his arrival. This was to be continued every fortnight, and those who wished to have their letters forwarded by this conveyance were requested to send them in time. The letter of intelligence of the battle of Lexington, which was transmitted from committee to committee, dated 24th of April, 1775, and starting from Wallingsford, Connecticut, one hundred miles from New York, reached Charleston in seventeen days. It was sixteen coming from New York, fifteen from Princeton, ten from Fredericksburg, Virginia, and three days from Wilmington, North Carolina.[1] This was by express, and was considered remarkable for its dispatch; and so it was, for the express which brought the news of the Declaration of Independence from Philadelphia did not reach Charleston until the 2d of August, twenty-nine days after it had been adopted in Congress. It reached Paris but a few days later than it reached Charleston, *i.e.* some time in the first half of the month of August. The *South Carolina and American General Gazette*, of the 11th of September, 1776, complains that though not long since an express had come in sixteen days from Philadelphia, the Northern Post generally took about double that time. Ships frequently arrived from England, bringing European news within the month. Thus separated from the other colonies by distance, and still more so by the character of the intervening country, South Carolina was left to struggle by herself for existence.

The colony was for a long time, indeed until 1733, the distant outpost between the other English colonies and the Spaniards at St. Augustine, and the French on the Mis-

[1] Drayton's *Memoirs*, vol. I, 248.

sissippi. It was planted to assert the dominion of Great Britain against that of Spain in disputed territory. At each end of the long attenuated line of the British settlements on the American coast there was a hostile post. At the North the French in Canada were jealously watching the growth of the English colonial system, while at the South the Spaniards in Florida, regarding the planting of the colony in Carolina as an invasion of their own territory, were on the alert to attack it upon every favorable opportunity, regardless whether peace or war formally subsisted at the time between Spain and England. The French were a menace to New England, but the colonists there could be reached only by an overland invasion, which, by the climate, was practically restricted to one season of the year, and which, from the difficulty of transportation, was much less serious. The Spaniards at St. Augustine, on the other hand, were the constant active and malignant enemies of the Carolinians, who were at such a distance from the other British colonies as to be beyond the reach of their support. Then, too, Charles Town was a little further from St. Augustine than a third of the distance from Jamestown, in Virginia, the nearest settlement, with the exception of the feeble colony at Albemarle, from which no support could be extended. The Carolinians were open to attack by sea, and to this danger they were open at all seasons of the year.

This separation of South Carolina from the other colonies on the Continent was recognized and acted upon in the treatment of the colony by the Government in England. It was regarded as more nearly allied to the island colonies than to those on the main. Thus when Edward Randolph, the collector of the King's customs, proposed in 1694 a rearrangement and consolidation of the Colonial

Governments for the better control and collection of the King's revenue, he recommended that the Proprietary Governments should be set aside, and that South Carolina and all the Bahama Islands should be put under one government, under her Majesty's immediate authority; that North Carolina should be annexed to Virginia, Delaware to Maryland, West Jersey to Pennsylvania, East Jersey and Connecticut to New York, and Rhode Island to Massachusetts, thus reducing the number of the colonies to but six.[1]

This treatment at home, and constant exposure to attack from St. Augustine by sea and from Indians on land, instigated alike by the Spaniards in Florida and the French from Mobile, had great influence upon the development of the Carolina colony, alike upon the organization of its government and its social structure.

In the first place it forced the Carolinians to depend upon themselves for their defence, and to that extent produced a sentiment of independence in regard to the other colonies.

In the next it began the centripetal character of the development of the colony, which as a province and State South Carolina so long retained, and which indeed she has not even yet entirely lost. The colonial development of Virginia was by rural communities. There was no city or town life. "The only place in Virginia previous to 1700 to which the name of a town could with any degree of appropriateness be applied was Jamestown, and even this settlement never rose to a dignity superior to that of a village."[2] Williamsburg was never more than a college town and seat of government. In New England the colonists separated very early into different com-

[1] *Colonial Records of No. Ca.*, vol. I. 441, 442.

[2] Bruce's *Economic History of Virginia*, vol. II. 525.

munities. In Connecticut, says Professor Johnston, town and church were but two sides of the same thing, and as there would be differences of opinion in church as well as in town matters, every religious dispute gave rise to a new town until the faintest lines of theological divergence were satisfied.[1] Each of these new towns with its own peculiar schism became a new centre, from and around which population spread. But in South Carolina the constant and immediate danger of invasion by Spaniards and Indians, as exemplified in the utter destruction of the attempted settlement by Lord Cardross at Port Royal in 1686, restricted the colonists for many years to distances within reach of the fortifications of Charles Town, and formed within and around it a compact body of society, with outlying plantations, from which in case of alarm the colonists withdrew to the town, as in case of the rising of the Yamassees in 1715. When this danger was overcome by the increase of population, and the founding and building up of the colony of Georgia, the unhealthfulness of the country along the rivers, increased, if not caused, by the disturbance of the soil and the stagnant water of rice planting in the inland swamps, compelled the planters to reside in the summer in the town or in some high resinous pine-land settlement away from malaria.[2] Thus, until the immigration of the Scotch-Irish and Virginians into the upper country by the way of the mountains, from 1750 to 1760, the development of

[1] *Connecticut*, Am. Com., Series 6.

[2] A recent writer, of whom we shall have occasion presently to speak, has fallen into the curious error of stating that it was the winter months during which the wealthy planters, owing to the unhealthfulness of the surrounding country, were in the habit of resorting to Charlestown, missing at once the fact and the cause. *Government of the Colony of South Carolina* (Whitney). *Johns Hopkins University Studies*, 13 series, 1–11.

the colony was not, as in New England, from many and distinct settlements or towns, but from one point, the circle enlarging as the population increased, but always with reference to the one central point, — the town, — Charles Town.

The development of Carolina thus presented the anomaly that, though it was a planters' colony, it was developed by way of city or town life. Boston was the largest town in Massachusetts, but there was organization and administration outside of it. For many years Charles Town practically embodied all of Carolina. Beaufort, the next town to be settled, was not attempted for more than forty years after the planting of the colony, and Georgetown not until some years later. Until 1716 elections were generally held in the town for all the province, and representation outside of it — that by parishes — was not practically established until the overthrow of the Proprietary Government in 1719. No court of general jurisdiction was held outside of it until 1773, over a hundred years after the establishment of the colony. There was only one government for the province, the town, and the church. The same General Assembly passed laws for the province, laid out streets, regulated the police for the town, and governed the church. Even after the colony had grown, and the upper country had been peopled from another source, every magistrate in the province was appointed in Charles Town until the Revolution of 1776, and after that, upon the adoption of the Constitution of 1790 and the change of the seat of government to Columbia, at that place. There was thus from the inception of the colony in 1665 to the overthrow of the State in 1865, for two hundred years, only one government in South Carolina. There was no such thing as a county or township government of any kind.

From the isolation of the colony during the period of its formation, and for long after, it remained a dependency of England, as well in interest as in fact, rather than dependent upon the support and sympathy of its distant sister colonies; and with the love of the old country, with which communication was constant and close, everything tended to limit whatever patriotism there might be to the gradually extending area of the province, while the constant recurrence in thought and act to the central point, the town, developed and intensified the Carolina conception of the entity of the State and of its absolute sovereignty.

There were other potent causes tending to differentiate the colonists of Carolina from those of the other provinces. All the other colonies, except New York, were peopled by emigrants in the main directly from the British Islands; but beside the large Huguenot element in her population, Carolina was settled in a great measure from Barbadoes and the other British West Indies. Navigation to the southern parts of America was at first entirely by the way of the West Indies, and though Ribault in 1562 had ventured directly across the Atlantic, the course of communication between Carolina and England continued for many years to be principally by way of Barbadoes. The first colony sent by the Proprietors sailed for Barbadoes, consigned to agents there, from which it was dispatched to Carolina by way of Bermuda. While in the formation of the other colonies the whole structure of society was of necessity built up from the very foundation in accordance with the peculiar environment of each, the social and political system of Carolina was to a considerable extent transferred from that island in a state of advanced development. The settlers from Barbadoes under Yeamans brought with them a colonial system which, though comparatively new and not fully developed,

was little later than that of Virginia and nearly contemporaneous with that of Massachusetts; and the basis of this social system was the institution of African slavery. The attempt to engraft upon this social order a legally recognized aristocracy of Landgraves and Caciques, proposed by Locke and adopted by the Proprietors under the influence of Shaftesbury, and the struggle caused by its attempted enforcement, helped much in the formation of the peculiar characteristics which were to mark the political and social organization of South Carolina, giving to it on the one hand a strongly aristocratic tone with a party for sustaining prerogative, while on the other it developed in the very outset a party of the people who based their rights upon the dogma of a strict construction of chartered or constitutional provisions.

Then again, the establishment of the colony in proximity to the Spaniards, and the hostility of the Indians under French and Spanish influence, necessitated from the very beginning a military organization of the people; and this was also rendered the more necessary by the increasing number of negro slaves, — savages, — which became a source of weakness in times of danger, and, until the institution in the course of years became thoroughly settled, a constant source of care and anxiety. The colonists, as we shall see, were desirous of checking the importation of negroes, not from any moral objections to slave holding, but from their apprehension of the danger of being outnumbered by the negroes, and of their rising in case the whites should be assailed by the Indians, or through the instigation of the Spaniards or French, as did happen in 1740. This danger gave rise to a military police organization of the whole people, which continued from 1704 until the emancipation of the negroes as the result of the war of secession.

Under this system the province, and afterwards the State, was divided into military districts, the chief of each of which was a colonel, and these again into other districts, or beats, under captains. The captain was the police officer of his district, or beat, and was charged with the patrol and police of his beat and the enforcement of the regulations in regard to the slaves. The regimental and company military precincts were thus coincident with the police districts, and the two formed one system. The captain of a beat or militia company thus charged with the maintenance of order in his district was a man in authority for the time, and as the duties were onerous the office was not usually held longer than the term which exempted one from further service. So each young man of position in a neighborhood took his turn of duty, and thus acquiring the title of captain retained it unless he became colonel. There were usually, therefore, a considerable number of men in each community having the title of "captain" or "colonel," and the designation implying a person of some local consequence was sought, and sometimes assumed without actual service. This system gave a military organization to the people, which was much more effective and exacting than ordinary militia enrolment and muster. So imbued was the system of government brought from Barbadoes with a military spirit that the high sheriff of the province retained the military title of "provost-marshal" for a hundred years — indeed, until the American Revolution. To this source may be traced the prevalence of military titles in the South, as that of "judge" or "squire" in other communities, indicating persons of local consequence.

Another principle to which the people of South Carolina have been as devoted, and have clung with equal consistency as to that of the autonomy of the State, is

that of the inviolability of the family relation. Nowhere has the family bond — the foundation and germ of all society and government — been more sacredly guarded and effectually preserved. It has been a part of the Constitution of the State — unwritten, it is true, until 1895 — but nevertheless fully recognized and enforced — that divorce should never be allowed. There never has been a divorce in South Carolina — province, colony, or State — except during the Reconstruction period after the war between the States, under the government of strangers, adventurers, and negroes, upheld by Federal bayonets. There is but one case of divorce reported in her law books, and that was during that infamous rule. The legislature of the State has persistently refused either itself to grant divorces or to authorize its courts to do so. In conferring powers and jurisdiction upon its courts those of the ecclesiastical tribunals were purposely excluded. "Whether wisely or unwisely," said Chancellor Dunkin in a case in which an effort was made to have the court declare marriage void, "the legislature has thought proper to withhold these powers. They have delegated to no court the authority to declare a marriage void, and they have never themselves exercised the authority."[1] The Constitution adopted in the last

[1] See the cases of *Mattison* v. *Mattison*, 1 *Strobart Equity Reports, S. C.*, and *Bowers* v. *Bowers*, 10 *Richardson's Equity Reports, S. C.* The latter a case decided by the Court of Errors consisting of all the law judges and chancellors on equity of the State.

It is sometimes suggested that this prohibition of divorce has been more a matter of form than of substance, as persons desiring divorce had only to go into another State, obtain a decree, and return. This has undoubtedly been attempted, but is countenanced neither by the courts nor by society. In a case *Duke* v. *Fulmer*, 5 *Richardson's Equity Reports*, 171, where a question of property it was attempted to set up such a divorce obtained in another State; but the courts of the State would not permit it, but held that a marriage contract once entered into in South

year (1895) has now made the prohibition of divorce a part of the written organic law of the State. With this inexorable rule in regard to the irrevocability of marriage once entered into the family group has been at once the source of social and political strength. The people of South Carolina have recognized and acted upon the great political truth that in a republican form of government above all others is the family the strength of the State. She has held out to her sons that in establishing their own position upon a political or social eminence they were establishing it for their sons as well. She has been ready to recognize and has hailed with satisfaction and reward the evidence of the worthiness of the sons to succeed the fathers whom she had honored with public trusts. And so it has been that generation after generation finds the same names in her public records. It is no uncommon thing to find the sons to the third and fourth generation sitting together in the councils of the State. This political and social policy has given to the State many long lines of illustrious men.

Most of the elder States, says a recent English writer, preserve throughout American history an individuality quite as distinct and persistent as that of the leading Greek cities or great Roman families. But above all the dauntless and defiant spirit, the fiery temper, the venturous chivalry of South Carolina, continually remind the student of American history of her mixed origin, — the early interfusion of the blood of the English Cavalier with that of the Huguenots, who transmitted to their offspring

Carolina is indissoluble, either by consent of the parties or by the judgment or statute of any foreign tribunal or legislation. A divorced person in the State of South Carolina is as rare as the Northern gentleman who had been abroad, who, Mr. McMaster tells us, was pointed out as a curiosity as late as 1795. *Hist. of the United States*, vol. I, 51.

the traditional gallantry and martial spirit of their Gascon ancestry. Nothing in her situation, geographical, political, or industrial, required her to take the foremost place in sectional conflict. But in almost every collision the Palmetto State comes to the front as the promptest, fiercest, most determined champion of State sovereignty, slavery, and Southern interests.[1] Another writer observes that a Virginian of to-day is first a Virginian; a South Carolinian is above all things a South Carolinian, but next they are both Southerners, and lastly Americans. Whether these criticisms are altogether true or not, the people of South Carolina, admired or condemned, have been recognized as a people of marked and distinctive characteristics. They have held and maintained determined policies throughout their history, and have impressed them upon other parts of the country. For this the calamities which befell in the war which they challenged have been by some regarded as a just retribution. But whether praised or blamed the fact is certain that they have been recognized as in many respects peculiar in their character.[2]

This, too, is more remarkable when, as every one familiar with the local history of the State well knows, there have been always marked and well-defined differences between themselves in almost every respect in which they appear to strangers as one people. It is all the more remarkable, too, since these differences have been, so to speak, organic, having had their origin in the very settlement of the State, and have not been evolved from differing circumstances among those who were once the same people.

To some of the first causes of these marked characteris-

[1] *Hist. of the United States* (Percy Greg), vol. I, 439.

[2] Preface to *Cyclopedia of Eminent Representative Men of the Carolinas of the Nineteenth Century*, by Edward McCrady.

ties we have already referred. These and others scarcely less potent will more fully appear as we proceed. We shall attempt in the following work to trace the history and the development of the State of South Carolina socially and politically from the inception of the colony to the end of the American Revolution.

A great inducement to this undertaking is the fact that there exists to-day no history of the State which can be bought upon the market. Her history can now be studied only in rare works to be purchased only occasionally at high rates in old book stalls.

So much, too, has recently been brought to light from sources inaccessible to former historians that it has become necessary to reconsider and recast much that has hitherto been received as authentic. This we have, perhaps rashly, attempted to do.

A brief review of works in regard to South Carolina, now out of print, will show, we think, the occasion for some substitute for them, and will, we trust, justify the attempt we have made to supply this want.

The first publication in regard to Carolina was one in the nature of an advertisement made by the Proprietors to induce emigration to the plantation or settlement at Cape Fear, begun on the 29th of May, 1664. It is entitled "A Brief Description of the Province of Carolina on the Coasts of Florida." It was printed in London in 1666.[1] In 1682 there were two other such publications; one was by Samuel Wilson, secretary to the Proprietors, which was likewise an advertisement of the advantages of the settlement of Charles Town at Oyster Point. It is entitled "An Account of the Province of Carolina in America, together with an Abstract of the Patent, and several other Necessary and Useful Particulars to such as

[1] Carroll's *Collections*, vol. II, 9.

have Thoughts of Transporting Themselves thither. Published for their information." . . . The other publication of the year 1682 was made by one who wrote under the designation of "T—— A——, Gen't clerk on board her Majesty's ship the Richmond, which was sent out in the year 1680, with particular instruction to inquire into the state of the country by her Majesty's special command, and returned this present year, 1682." The work is entitled "Carolina or a Description of the Present State of that Country and the Natural Excellence thereof," etc. This publication, by Thomas Ashe, is more reliable than that of Samuel Wilson's, inasmuch as it is in the nature of a disinterested report, rather than an advertisement to induce immigration.

The next work is "A New Description of that Fertile and Pleasant Province of Carolina, with a Brief Account of its Discovery and Settling and the Government thereof to the Time, with several Remarkable Passages of Divine Providence during my Time. By John Archdale, late Governor of the Same. London. Printed in 1707." The description of Carolina in this work is very meagre; and besides the briefest account of its affairs since the settlement of the colony there is little more than a narrative of Archdale's short administration, written apparently to justify his conduct, and to show that he was not responsible for the disturbed condition of affairs which occurred soon after he left the province. His style is exceedingly loose and confused, and the work is too egotistical to be of any great value save for the presence of a few original papers.

The next year, 1708, there appeared a work of considerable pretension published anonymously in two volumes, under the title of "The British Empire in America. Containing the History of the Discovery, Settlement,

Progress and State of the Continent and Islands of America." The first volume was "an account of the country, soil, climate, product and trade of New Foundland, New England, New Scotland, New York, New Jersey, Pennsylvania, Maryland, Virginia, Carolina, Georgia and Hudson's Bay." The second volume contained like accounts of the West India Islands. This work was by John Oldmixon, an author of numerous poems and some historical works. The latter are regarded as dull works, and his bigoted defence of Whig principles and abuse of the Stuarts are not calculated to inspire confidence. Macaulay, Whig as he was, declares that Oldmixon unsupported by evidence is of no weight whatsoever. He was one of the victims of Pope's satire in the *Dunciad*. His account of Carolina in this work is nevertheless the first historical account of the province. True to his character and politics, however, his authorities are all on one side of the religious disputes in the colony. These are avowedly Archdale and Boone, the latter of whom was the leader on that side in all the controversies in regard to the naturalization of the Huguenots and the Church Acts. Oldmixon's account of Carolina will be found republished in Carroll's collections. We shall quote from the original work rather than from Carroll's collections, as we shall have occasion to refer to the volume on the West Indies as well as to that in which he writes of Carolina.

The first work designed as a history of South Carolina —a history of South Carolina only— was that prepared by the Rev. Alexander Hewatt, D.D., published in London in 1779 during the Revolution. It was entitled "An Historical Account of the Rise and Progress of the Colonies of South Carolina and Georgia." Dr. Hewatt, as is well known, was the pastor of the Scotch, now the First Presbyterian, Church, Charleston, from 1763 to 1776,

when he left the province because of his opposition to the pending Revolution. His work was compiled, it is said, with the assistance of Lieutenant Governor William Bull,[1] than whom no better informed nor safer authority could possibly have been found; for, though like Dr. Hewatt a Royalist, and at the time of the publication a refugee in London in consequence, Governor Bull possessed means of information beyond that probably of any other person in the province, he having himself been continuously in public office since 1740, the son of Lieutenant Governor William Bull, who had likewise been in office for many years, and the grandson of Stephen Bull, who had come out with the first settlers on the Ashley the deputy of a Proprietor, and had held offices in succession from the formation of the colony. When, therefore, Dr. Hewatt speaks from tradition he does so from the very best source of information. Access, however, to the records of the State paper office in London, which have since been published, the Shaftesbury papers, some of which were obtained mainly through the exertions of the Hon. William A. Courtenay, and some of which he has presented in the City Year Books of his administration as Mayor of Charleston, and the manuscript public records now in Columbia, show that he was sometimes mistaken, and justify the regret he expressed in his preface "that he was sometimes obliged to have recourse to very confused materials; that indeed his information in the peculiar circumstances in which he stood was often not so good as he could have desired, and even from these he was excluded before he had finished the collection necessary to complete his plan." Dr. Hewatt's work covers the period of the Proprietary Government and that of the Royal to the repeal of the Stamp Act in 1766.

[1] Preface to Ramsay's *Hist. of So. Ca.*

George Chalmers, an antiquarian and political writer of considerable eminence, had visited Maryland in 1763 with a view to settling there; but espousing the Royalist cause on the breaking out of the American War of Independence, returned to England. Having become nevertheless much interested in the history and establishment of the English colonies in America, and enjoying free access to the State papers and plantation records, he became possessed of much important information, and in 1780 published the first volume of a projected work, entitled "Political Annals of the Present United Colonies from their Settlement to the Peace of 1763." The annals of Carolina are brought down in this volume to the final rejection of the Fundamental Constitutions in 1693. The second volume never appeared. The work as far as it went is the best that was yet written, and contains much valuable and reliable information. This also is republished in Carroll's collections.

Dr. David Ramsay in 1785 — two years after the end of the struggle — published his "History of the Revolution of South Carolina from a British Province to an Independent State, in two volumes," and this work in 1789 he followed with a history of the American Revolution; and in 1809 he published "The History of South Carolina from its First Settlement in 1670 to the year 1808." This last work so far as it relates to the Proprietary and Royal governments is mostly a reproduction of parts of Hewatt's work. He follows that author line after line, and page after page. He appears to have consulted no original documents in its preparation. His first volume is little more than an abridgment and rearrangement of Hewatt's history; but in the second he has compiled much valuable information in regard to medical, legal, fiscal, agricultural, and commercial affairs, of the arts, of natural history and

literature, and has appended biographical sketches of great interest. The chief value of his work is contained in the second volume.

Ramsay's history of the revolution in South Carolina is valuable chiefly for the number of original documents it preserves, and is quite full so far as it records the transactions of Congress and the movements of the Continental army, but he fails to appreciate the important part acted by the partisan bands in South Carolina during the period in which, after the fall of Charleston and the defeat of Gates at Camden, the State was practically abandoned by Congress as lost. His silence upon the subject is perhaps owing to the fact that during that time he was an exile in St. Augustine, cut off from information of what was passing in the State, and that from the very nature of the important services rendered by those patriots, without a government of any kind — State or Continental — to support them, they were without official records and their deeds dependent for historical preservation upon private memoirs, which had not appeared at the time when Dr. Ramsay compiled his history.

General William Moultrie in 1802 published two volumes, entitled "Memoirs of the American Revolution so far as it related to the States of North and South Carolina and Georgia, compiled from the most authentic materials, the author's personal knowledge of the various events, and including an epistolary correspondence in public affairs with civil and military officers at that period." These volumes are invaluable for the original papers which they contain, surpassing any other history of the times in this respect. The personal letters he gives throw a flood of light upon the state of private opinion of the times, and are scarcely less valuable than the numerous public papers, orders, reports, etc., which are thus preserved. General Moultrie

was a prisoner from the fall of Charles Town, and so, like Dr. Ramsay, was not a participator in the great achievements of Sumter and Marion. In charge, however, under the British authorities of the American prisoners taken in Charles Town, he gives us an account of their treatment, and occasional glimpses of what was passing in the British lines, which he obtained in such intercourse with the British officers as his position allowed or called for. His personal recollections were recorded, however, too long after the events of which he writes to insure accuracy.

In 1812 Colonel Henry Lee, who had commanded the famous legion in the campaigns of 1781 and 1782, published his history, entitled "Memoirs of the War in the Southern Department of the United States." In this work Colonel Lee displays abilities as a writer scarcely less than those of a military commander, which he had so signally displayed during his service in this State. As his greed for fame, however, had laid him open to the accusation of improper conduct in the field, it led him also as an author to assume, impliedly at least, credit to himself for deeds performed by others. His jealousy of Sumter and Marion was very great, — especially of Sumter, — but it was not confined to them. It extended also to Major Rudulph, his next in command in the legion. To secure for himself the honor of receiving the surrender of Fort Grandby in 1781, he is charged with granting improper terms to the British commander in order to hasten the surrender before Sumter, who had hemmed in the British garrison before Lee's arrival, could return from a dash upon Orangeburg. The taking of Fort Galpin he leaves to be inferred as having been accomplished by himself, when it was the achievement of Major Rudulph, and at which he was not even present. He describes the battle of Quinby's Bridge as if fought by him, without mentioning the

fact that General Sumter was present and in command. Colonel Lee's memoir is nevertheless a most able, important, and valuable work. It was republished and edited by his distinguished son, General Robert E. Lee, in 1870, under the briefer title of the "Memoirs of the War '76," and is so cited in this work.

In 1816 Mason L. Weems, of Maryland, claiming to be an Episcopal clergyman, his ordination as such, however, being, at least, doubtful, but who did, nevertheless, officiate at Pohick Church, near Mount Vernon, in the time of General Washington, wrote a life of General Marion, which he published as the joint work of General Peter Horry and himself. General Horry disclaimed the honor. Weems was a man of no character, but became famous as an author and travelling book agent for Mathew Carey. An Episcopal clergyman, as he claimed to be, he knew no distinction of churches, but preached in every pulpit to which he could gain access, and from each of which he recommended his books. He carried a fiddle on his drumming tours, and when he could find no pulpit from which to cry his books he gathered a crowd by that instrument. He nevertheless wrote in a most popular style, and his Life of Washington, published in 1800, went through forty editions. His Life of Marion has probably gone through as many and is still republished. These works, says Bishop Meade, have been probably more read than those of Marshall, Ramsay, Bancroft, and Irving put together. Hence it is that Marion's name is to be found all over the United States in the nomenclature of towns and postoffices. As historical works these books are absolutely valueless and full of ridiculous exaggerations and false statements. The best that can be said of them is to call them historical romances.[1]

[1] See *Old Churches, Ministers, and Families of Virginia*, Bishop Meade, 2 vol., 233; Allibone's *Critical Dic. of English Literature*. And

The appearance of Weems's fanciful tale, besides giving fame to Marion which he fully deserved upon better grounds than that of his idle story, had the beneficial effect of calling forth a most admirable and authentic work upon the subject by Major William Dobein James, of Marion's brigade, published in 1821. The only allusion, however, which Major James makes to Weems's book is the statement, in his preface, that the original of the correspondence between General Greene and General Marion had been left by General Horry with Weems; "but it appears," James observes, that "he made no use of them."

The two volumes entitled "Sketches of the Life and Correspondence of Nathaniel Greene, etc., by the Hon. William Johnson, Justice of the Supreme Court of the United States," published in 1822, besides a brief but excellent sketch of the settlement of the province, contains altogether the best account of the war of the Revolution in South Carolina. Unfortunately, however, Mr. Justice Johnson, in his zealous advocacy of the hero of his work, became, we think, misled into attributing to him the credit for the redemption of the State, at the expense of Sumter and Marion, and their heroic followers. To repair this unintentional injustice of both Ramsay and Johnson shall be our earnest effort, if in the publication of this volume we shall find sufficient encouragement to pursue the work and life, and time shall allow. If so, we shall attempt to correct the impression and to show to how great an extent the ultimate results of the whole revolutionary struggle in the country was dependent upon the

yet it is such a work as Weems's Life of Marion that is gravely cited as authority upon the subject of Education in South Carolina in the Report of the Commissioners of Education of the United States for the year 1895. See vol. I, 392.

operations of the partisan bands of South Carolina and her two neighboring States — operations conducted without military commissions to require or sanction them. We shall undertake to show that it was to these voluntary uprisings of the people of South Carolina, with the assistance of their friends in North Carolina and Georgia, that the whole of the enemy's plans were foiled, frustrated, and broken up, and the grand culmination of Yorktown rendered possible: and then we shall critically examine the relative claims of Greene and Lee, of Sumter, Marion, and Pickens, to the glory of this achievement.

We venture to believe that the record we shall present will show that no one of the thirteen original States of the Union suffered so severely in the war of the Revolution as the State of South Carolina; that in no one was there so much actual warfare; in no one was there such an uprising of the people; in no one was so much accomplished for the general cause — and that with so little assistance.[1]

In the same year that Judge Johnson published his

[1] A chronological list of battles, actions, etc., is given in an Appendix to a work entitled *Historical Register of Officers of the Continental Army during the War of the Revolution, April, 1775, to December, 1788*, by F. B. Heitman, Washington, 1893. This list gives the names of 315 battles, etc. Of these 89 took place in the State of New York, 54 in South Carolina, 34 in New Jersey, 24 in Georgia, 21 in North Carolina, 15 in Canada, 15 in Massachusetts, 14 in Connecticut, 14 in Virginia, 13 in Pennsylvania, 5 in Rhode Island, 3 in Delaware, 3 in Indiana, 2 in Vermont, 1 in Maine, 1 in Nova Scotia, 1 in Florida, 1 in Chesapeake Bay, 1 in Lake Champlain, and 3 elsewhere. In a table prepared by the author of this work he has a list of 130 battles, engagements, etc., which took place in South Carolina, including, of course, the smallest affairs, but, on the other hand, including as but one the siege of Charleston, which lasted forty days; the siege of Ninety-Six, which lasted twenty-seven days, etc. His tables show that there was actual fighting in every county in the State as present organized but three, and that these three were traversed by both armies.

work there appeared Dr. Alexander Garden's "Anecdotes of the Revolutionary War in America, with Sketches of Character of Persons the Most Distinguished in the Southern States for Civil and Military Services." The title of this work is an injustice to its historical character. It is really a series of most valuable biographical sketches. The popular title by which it is known, "Garden's Anecdotes," would not lead one to consult it for the valuable historical information which it contains. The anecdotes proper which it relates are but a small part of the work. Authentic sketches and incidents of the Revolution form by far the greater part.

Besides the numerous published works upon the subject of the Revolution, British and American, which we have been able to consult, too numerous to mention, we have been so fortunate as to have had access to two volumes of manuscript letters and papers of General Sumter, containing all of General Greene's letters to him, and also to copies of his letters to General Greene, few of which have yet been published. This correspondence, together with that published by Major Henry Lee, the son of Colonel Henry Lee, in his work entitled "Campaigns in the Carolinas," 1824, written in answer to Mr. Justice Johnson's claims in behalf of General Greene, throw great light upon the subject, and we think will be found to sustain the position we shall take in regard to the relative merits of the services of these distinguished men.

In 1802 Governor John Drayton published under the title of "A View of South Carolina" a brief, but most valuable, treatise relating to the interior economy and material resources of the State, containing important statistical information. To this he added, in 1821, two volumes of Memoirs, compiled principally from the papers of William Henry Drayton, his distinguished father, in which

he has preserved important original material, chiefly relating to the years immediately preceding the Revolution.

In 1820 the Rev. Frederick Dalcho, M.D., compiled his church history. It is entitled "An Historical Account of the Protestant Episcopal Church in South Carolina," etc., but it is far more than a history of the Church of which he writes. It is full of the most important information in regard to the province generally and is entirely free from sectarian bias.

Mills's Statistics of South Carolina, etc., published in 1826, was intended, as the author states in his preface, as an appendix to his great work, the "Atlas of the State." It is full of curious and interesting information; unfortunately, however, it is not so reliable historically as his atlas, which must ever remain the basis of every subsequent work. His statistics are unquestioned and supply a want in the history of the State. Historically, however, he is inaccurate. His list of the Proprietary and Royal Governors, which is usually followed, is incorrect, as he makes no distinction between the Governors and Lieutenant Governors, presidents of council or others acting ad interim. There were no natives of Carolina Governors under the Royal rule.

Hewatt cites no authorities in his work, and indeed appears to have had access to few original papers, and, as we have observed, Ramsay added nothing in this line; it remained for Mr. B. R. Carroll, in 1836, to give to the State the first collection of original documents relating to the Proprietary and Royal Governments. It is difficult to estimate the value of this contribution to the study of the history of the State in the two volumes published. His compilation is entitled "Historical Collections of South Carolina, Embracing Many Rare and Valuable Pamphlets and Other Documents Relating to

the History of the State from its Discovery to its Independence in the Year 1776." The first of these volumes contains a republication of Hewatt's History. The second is the most valuable as containing the original papers upon which much of the history of the province must depend.

William Gilmore Simms, the poet, novelist, and historian of the State, in 1840 produced a volume originally conceived with the view to the instruction of an only daughter in the history of her birthplace. His purpose, he tells us in the preface to the last edition of the work, was to present something more than an abridgment of the previous cumbersome volumes relating to the history of the State in a cheap and popular form. He made no original research; but accepted the statements of Hewatt and Ramsay, endeavoring only to simplify and popularize the style of their story. His history, so prepared, has gone through several editions, 1840, 1842, 1860, but is now out of print. The historical reputation of the author does not, however, depend upon his professed history, but rather upon his historical novels. It is in these that Mr. Simms has brought out the strong individuality of the Carolina character as it impressed itself upon the struggle of the Revolution, "and developed into that unique partisan warfare so bold in its conception, so brilliant in its performance, so triumphant in its results." "And I cannot refer to this glorious portion of our history," observes one of the most distinguished sons of Carolina, the Hon. William Henry Trescot, "without acknowledging the debt which I think the State owes to one of her most distinguished sons for the fidelity with which he has preserved its memory, the vigor and beauty with which he has painted its most stirring scenes and kept alive in fiction the portraits of its most famous

heroes. I consider Mr. Simms's partisan novels as an invaluable contribution to Carolina history."[1]

In 1851 Joseph Johnson, M.D., published a volume of "Traditions and Reminiscences Chiefly of the American Revolution in the South, including Biographical Sketches, Incidents, and Anecdotes," etc. This is as it purports to be a volume of traditions and reminiscences. It does not assume to be a connected history, nor to be taken from original sources. The traditions which the author gives are sometimes, therefore, found to be incorrect, as traditions in their details often are, but the volume has nevertheless preserved many most valuable loose papers, and has rescued from oblivion and preserved many most important and interesting incidents. Especially so in regard to the upper country. Its great value, like that of the second volume of Ramsay's History, is in its biographical sketches and Revolutionary incidents.

In 1853 R. W. Gibbes, M.D., published a volume of "Documentary History of the American Revolution, Consisting of Letters and Papers Relating to the Contest for Liberty, Chiefly in South Carolina in 1781 and 1782, from originals in the possession of the editor and from other sources." Dr. Gibbes says in his preface that the series of letters collected by General Peter Horry, which he published, had been in the hands of Weems, Garden, and Simms, who have each written a life of Marion. To these he has added a few letters, which he selected from Tarleton's Memoirs, Ramsay's Revolution in South Carolina, Johnson's Life of Greene, Lee's Memoirs and Lee's Campaign of 1781. The original letters to and from Greene, Sumter, and Marion, and of Governor Rutledge, etc., are of the greatest historical value. In 1855 Dr. Gibbes fol-

[1] Oration of Hon. William Hoy. Prescot before the South Carolina Historical Society, May 19, 1859. *Coll. Hist. So. Sc.*, vol. III. 20.

lowed this volume with a second, and in 1857 with a third, bearing the same title, composed chiefly of original papers; the second relating to the early period of the Revolution, and the third to the later. The two last are quite as valuable as the first.

In 1856 Mr. Plowden C. J. Weston printed for private distribution a volume entitled "Documents Connected with the History of South Carolina." These documents are five in number. The first two, viz. "The Land Travels of David Ingram, 1568–9," and the "Letters of Capt. Thomas Young," etc., 1634, relate but indirectly, if at all, to the history of Carolina. The other three are very important. They are: (1) "Governor Glen's Answers to the Lords of Trade," which are evidently the original of a tract entitled "A Description of Carolina," etc., published in London, 1761, and reprinted in Carroll's collection: (2) "The Letters of Richard Cumberland, Esq., to Roger Pinckney, Esq., his Deputy, with Regard to the Provost Marshalship of South Carolina," and (3) "De Brahm's Philosophico-Historico-Hydrogeography of South Carolina, Georgia, and East Florida."

The State owes a debt of deep gratitude to these collectors of historical material, but no less is due to Professor William James Rivers for the first standard work upon her history. In 1856 Professor Rivers, then of the South Carolina College, published "A Sketch of the History of South Carolina to the Close of the Proprietary Government, 1719, with Appendix Containing Many Valuable Records." This history is compiled from original documents, and the authorities upon which he relies for his statements are all given. Its accuracy has recently been severely tested by the publication of the Colonial Records of North Carolina, many of which records of the time of the Proprietary Government are really the records of this

province, and, in the main, incidentally only to North Carolina — and also by the manuscript recently obtained by this State from the State paper office in London. This test has sustained the accuracy of Professor Rivers's work, and vindicated his conclusions to a remarkable degree.

Professor Rivers has made other most valuable contributions to the History of the State, Topics on the History of South Carolina, Chapters on Colonial History, etc.

The "Collection of the Historical Society of South Carolina," the publication of which was begun in 1857, but which, from the late war and various causes, have been impeded, contain a vast amount of information, and are invaluable to the student. The original documents are all important: but the great value of the work consists in the "List and Abstract of Documents Relating to South Carolina now Existing in the State Paper Office, London," prepared for the Society by their agent, the late W. Noel Sainsbury, assistant keeper of the public records; the Records of Council of Safety in the beginning of the Revolution; and Mr. Laurens's narrative of his capture and imprisonment in the town from 1780 to 1782.

In 1858 the Hon. John Belton O'Neal, Chief Justice of the State, published a small volume entitled "The Annals of Newberry," in which much information in regard to the settlement of that district (now county) is given. The next year, 1859, the first volume of a proposed History of the Upper Country of South Carolina, by John H. Logan, appeared. It is deeply to be regretted that the war, and Mr. Logan's subsequent death, should have put an end to this admirable work, which promised to be of such great value to the State. The volume published is full of the most curious information. In 1867 the "History of the Old Cherokees," by the Rt. Rev. Alexander Gregg, D.D., was published. This work contains an account of

the aborigines of the Pee-Dee, the first white settlements, their subsequent progress, civil changes, the struggle of the Revolution, and growth of the country afterward, from 1730 to 1810, with notices of families and sketches of individuals. It offers the most complete history of a given section of the State to be found. In 1870 the Rev. George Howe, D.D., professor in the Theological Seminary, Columbia, South Carolina, published a "History of the Presbyterian Church in South Carolina." This volume is a mine of information in regard to the settlement of the upper part of the State. It contains much new matter in regard to the lower country also; but its chief value is in the material the reverend author has collected about the settlements of the other section. He has done very much to supply the work upon which Mr. Logan was engaged. It is not without its significance that the two Church histories, Episcopal and Presbyterian, should embody so much that is of interest and value to the State at large.

In 1891 the General Assembly of the States provided for the appointment of a commission of five citizens to be known as "The Public Record Commission of South Carolina." The records now known as the Shaftesbury papers, the transcripts of which aggregate about a thousand closely written cap-size pages, remained in the family of Sir Ashley Cooper for two centuries. The late Earl about twenty years ago deposited these original documents in the Public Record office in London. These papers were at once classified, catalogued, and made accessible to the public. In preparing the address in 1883 on the occasion of the "Centennial of Incorporation of the City of Charleston," the Hon. William A. Courtenay, then mayor of the city, had sent him through Mr. Sainsbury some of the earliest letters and other documents which

he used upon that occasion. The names of the colonists who came out in the *Carolina* under Governor Sayle were first published in that address. Impressed with the importance of the partial information thus obtained, he suggested to the City Council to secure transcripts of the remaining papers. This was done, and subsequently these earliest records of South Carolina were deposited with the South Carolina Historical Society, accompanied by an appropriation to promote their publication. The General Assembly of the State also contributed to the same purpose, and these valuable records are now in press and will shortly appear. Mayor Courtenay has for two decades been an active worker in State history; during his mayoralty he edited and published eight octavo volumes of municipal department reports, with an appendix to each volume of original historical papers. These appendices contain in all twelve hundred pages of interesting and valuable material not accessible elsewhere. His Centennial Address, subsequently revised and enlarged at the request of the City Council, contains the only connected sketch of the history of Charleston in print. The church histories prepared especially for his Year Books are full of local information of value. In the Cartography of South Carolina there are twenty-four maps, from the first ever drawn of dates 1672 down to later years. The most of these are rare and difficult to purchase even at high prices. Each map has been reproduced in fac-simile from originals, and together form a most desirable cartographical collection. In 1890–91 Mayor Courtenay originated a plan for procuring transcripts of all the papers relating to South Carolina in the London record office, and was chiefly instrumental in obtaining the passage of an act creating the Public Record Commission of South Carolina. This commission consisted of the Hon. J. E. Tindall, Secretary

of State, *ex officio* chairman, the Hon. Henry McIver, Chief Justice, Hon. William A. Courtenay, Hon. W. C. Benet, and Professor R. Means Davis, whose duty it was made to procure transcripts of such documents relating to the history of South Carolina as they might deem necessary or important, and appropriations were made for the purpose. The commission immediately upon its appointment chose Mr. W. Noel Sainsbury, who was then retired from his official position in England, as the agent of the State for the purpose of procuring transcripts of every paper relating to the province and colony of Carolina from the date of the first charter of the Lords Proprietors, 1663, to the overthrow of the Royal Government, in 1775. In the three years since the commission has received and placed in the office of the Secretary of State thirty-six volumes of manuscript colonial records and fifteen hundred pages of missing journals of the Commons House of Assembly. These volumes, together with the colonial records of North Carolina, obtained from the same source and published by that State, and the Shaftesbury papers, copied for the City Council of Charleston, in 1883, under the direction of Mayor Courtenay, deposited with the South Carolina Historical Society, and just now about to be published, with the papers published as appendix to the work of Professor Rivers's Historical Sketches of South Carolina, present nearly, if not every, paper of public interest relating to the early history of the province. The manuscript volumes thus obtained by the commission have been entitled by them "Public Records," and will be so quoted in the following work.

A great revival of interest in colonial history has recently taken place all over the country, and renewed attention is given to that of each of the old thirteen States. In this study the history of this State is receiv-

ing its full share. In the series of studies instituted by the Johns Hopkins University in historical and political science three volumes have been issued relating to South Carolina.

The first of these is one by B. James Ramage, A.B., entitled "Local Government and Free Schools in South Carolina," first part read before the Historical Society of South Carolina, December 15, 1882. It is composed of two short essays, in the first of which the author traces very briefly the history of the organizations of the parish, district, and county, and in the second that of the free schools. It is to be regretted that the limits which the author prescribed for himself did not permit a further investigation into these interesting subjects — a regret the more felt because of the excellent treatment of them as far as he has gone.

The second of these is one by Shirley Carter Hughson, entitled "The Carolina Pirates and Colonial Commerce, 1670–1740" (Twelfth Series, V, VI, VII), 1894. The title to this volume we think misleading. There were few or no "Carolina Pirates." Pirates infested the Carolina coast. When their nest in New Providence was broken up in 1718 by the British Government, they sought refuge in the Cape Fear and other less commodious harbors on the coast, and from these points they carried on their depredations. But these pirates were as much enemies of the people of Carolina as the Indian savages in the woods behind our colony. While, however, we differ from the author in some respects, we recognize the thoroughness of his work, and admire his graphic descriptions of the actions between the Carolina forces and these formidable buccaneers. Mr. Hughson's story of these pirates and of the manner in which they were met, beaten, and destroyed by Colonel Rhett and Governor Robert Johnson

is well told and full of romance. We shall follow closely his statements of facts in regard to them.

The other volume, published by the Johns Hopkins University, is one by Professor Edison L. Whitney, Ph.D., LL.B., professor of history, Benzonia, Michigan. This monograph, the author says, aims to give a description of the Government of South Carolina during the colonial period from the constitutional point. The author states in his preface that the foot-notes have been made more numerous than was necessary in order to show to the reader where to turn for fuller information, rather than to furnish authorities for statements in his work. This, we think, is unfortunate, for in such a work the most important purpose of such notes is to give the authority upon which the historian relies for his statements, and in this work the authorities given in the notes do not always, we think, bear out the statements of the text. The author has undoubtedly given much patient research to his subject and has consulted a number of authorities to which he refers. His difficulty has been that in pursuing "the special method" which he has adopted, rather than a chronological order, he has at times lost the historical connection which is necessary in order to understand the provisions of the law he cites. He has attempted to evolve a system from the letter of the statute without reference to the circumstances under which it was passed or to the question whether it was indeed actually put in operation.

He has also fallen into the serious error of stating that while Lieutenant Governors were frequently appointed in the islands, they were seldom on the Continent, and that Colonel Broughton was the only Lieutenant Governor commissioned in South Carolina. This is altogether a mistake. Lieutenant Governors were often appointed on the Continent. They were so appointed in New York,

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Maryland, Virginia, the Carolinas, and Florida. Lieutenant Governor Broughton, who succeeded to the administration of the government upon the death of Governor Robert Johnson, May 3, 1735, died on the 22d November, 1737, whereupon, no Governor having yet been appointed by his Majesty in the place of Governor Johnson, William Bull, the son of Stephen Bull, the emigrant, succeeded to the administration as President of the Council, but on the 3d of June, 1738, was appointed Lieutenant Governor, and so continued until his death, 23d May, 1755, a period of seventeen years. His son, William Bull, who had been Speaker while his father was Lieutenant Governor, was commissioned Lieutenant Governor in 1759, and so continued until the overthrow of the Royal Government in 1775, a period of sixteen years. The father and son thus being Lieutenant Governors thirty-three years. Neither father nor son was ever Governor. The list of Royal Governors, given in Appendix H to the work, following that prepared by Mills, is incorrect. Arthur Middleton was never Governor. He was "President of the Council," and as such administered the government during the absence of Governor Nicholson. He was addressed as "President and Commander-in-chief." The first Lieutenant Governor Bull's administration was between the death of Governor Johnson and the appearance in the province of Governor Glen (five years after his appointment). He continued as Lieutenant Governor for twelve years, during Governor Glen's commission, and after, until his death. The second Lieutenant Governor Bull held his commission through the administrations of Governors Lyttleton, Boone, Lord Charles Greville Montague, and Lord William Campbell. Neither was deputy to any particular Governor, but held his office independently of the Governor's tenure.

The Governor was addressed as "His Excellency"; the Lieutenant Governor, even though administering the government, was but "His Honor."

This error of the author touches upon a material point in the Colonial history of South Carolina. It was one of the grievances of the colonists that none of them could ever hope to receive the highest appointments in the province. These were reserved for placemen from England. Broughton and the Bulls, however well they might administer the government in the absence of a Governor, could never aspire to be more than Lieutenant Governors; Charles Pinckney, however learned as a lawyer, could hold the office of Chief Justice only until it suited the convenience of the Royal Government to bestow it upon some disappointed favorite at Westminster. The colonists resisted the ignoring of Pinckney's appointment by the local government as Chief Justice in the place of Graeme, deceased, and the sending out Mr. Peter Leigh, a discredited English barrister, instead. They were especially urgent that William Bull, the younger, should receive the appointment of Royal Governor to succeed Lord Montague, and the appointment of Lord William Campbell instead was perhaps one of the influences which turned the scales of the Revolution in South Carolina.

Among the contributions to Educational History, edited by Herbert B. Adams and published by the bureau of education of the United States, is a very able monograph, in 1889, entitled "History of Higher Education in South Carolina, with a Sketch of the Free School System," by Colyer Meriwether, A.B., Johns Hopkins University. In this sketch is traced the development of the free or public school system of the State. The earliest educational efforts are described and instances are given illustrating the interest of South Carolina, when yet a colony, in providing the means for the intellectual

improvement of her sons. To this volume is added as an appendix a republication of a paper read before the Historical Society of South Carolina, August 6, 1888, by Edward McCrady, Jr., entitled "Colonial Education in South Carolina"—a refutation of the charge made by Mr. McMaster, in his History of the People of the United States, of the neglect of education in South Carolina prior to and during the Revolution.

The present volume will be restricted to the history of South Carolina during the Proprietary Government, *i.e.* from the settlement of the colony under the Royal charter to the overthrow of the Proprietors' rule, in 1719, a period of fifty years. A very brief review will be taken of the first explorations of the coast and the attempted Huguenot colony under Ribault. We shall more critically examine the exegesis of the charters under which the colony was founded, and the famous Fundamental Constitutions of Locke, which the Proprietors so persistently attempted to impose. We shall trace the progress of the colony from the arrival of the first adventurers and their settlement at Old Town on the Ashley; its removal to Oyster Point, the present site of the city of Charleston, and its gradual extension; the peopling of the province from different sources, and the peculiar influences upon its development of the Barbadian and Huguenot elements of the population. We shall tell of the struggle between the Proprietors to enforce the extraordinary system devised by Locke, and the successful resistance of the people under the lex scripta of the charters. Then we shall follow the contest over the Church Acts involving the naturalization of the Huguenots, resisted by the dissenters because of the affiliations of those people with the churchmen. These commotions we shall see to have had their origin in the mother

country, and to have been intimately connected with the purposes of political parties there. The devolution of the titles of the Proprietary shares in the province by deaths and assignments we shall observe materially affecting the affairs of the colony.

We shall tell of the contests of the colonists with the Spaniards, the French, the Indians, and the pirates — how well they maintained the outpost so necessary to the claim of England's dominion on the American Continent, and how firmly and bravely they met the pirates, constituting, at the time, a power which defied the distant governments of Europe, and preyed upon the colonial commerce — how vigorously and sternly they brought those enemies of the human race to judgment and inflicted upon them the extreme penalties of the law.

Despite political turmoil, hurricane, pestilence, and fire, the tomahawk of the Indian, and the sword of the French and Spaniard, we shall find the colony gradually developing from an emigrants' camp to social order and settled government, and carrying on successfully at their extreme end of the line of English colonies the experiment of representative government. We shall find them laying the foundation of great fortunes, building churches, quarrelling over religion, but withal strenuously maintaining it, and curiously mixing Puritan fanaticism with High Church dogma, founding schools and libraries, and laying so broad and deep the foundations of jurisprudence that that structure has continued to this day to rest upon the code of laws adopted in 1712.

Then we shall have to tell of the revolution encouraged, if not indeed instigated, by the Royal Government in England, by which the Proprietary Government was overthrown, and the province of South Carolina taken under the immediate government of his Majesty, King George the First.

CHAPTER I

CHRISTOPHER COLUMBUS accepting the theory of the rotundity of the earth, in 1492 sailed westward, assured that unless he discovered some new country in the yet unexplored seas he must reach the Indies, the easternmost limits of the known world. Upon his discovery of the islands which he supposed to be the Indies, he returned to Spain with the great tidings, and Pope Alexander VI generously bestowed the new countries upon the Kingdoms of Leon and Castile, on the condition that they should labor to extirpate idolatries and plant the holy faith in the New World. In his second voyage, in 1493, Columbus discovered more islands and coasted along a part of South America. In his first voyage his course had been diverted by the flight of birds to the southwest —and never, it has been said, had a flight of birds such important consequences. This southerly direction Columbus and his followers continued to pursue, and so it was that the northern continent escaped their knowledge.

Had the course of Columbus not thus been deflected, he would have entered the warm current of the Gulf Stream, have reached Florida, and thence perhaps been carried to the coast of Carolina or Virginia. The result would probably have been, as it has been observed, that the territory of the present United States would have been given a Roman Catholic Spanish population instead of a Protestant English one —a circumstance of immeasurable im-

portance.[1] As it happened, the only foothold the Spaniards obtained in this territory was in Florida, and the only English colonists with whom they came in contact and collision were those in Carolina. In the year 1496 John Cabot, a Venetian then in England, perceiving by the globe, as he thought, that the islands found by Columbus stood almost in the same latitude with England, and much nearer thereto than to Portugal and Castile, obtained from King Henry VII two ships and three hundred men, with which he embarked upon a voyage of discovery of his own. He sailed westwardly, discovered Newfoundland, and coasted along the shores of North America, Salvano says, till he came to 38 degrees towards the equinoctial line — that is, somewhere off the coast of Virginia, and from thence returned to England. "There be others," he adds, "which say that he went as far as the Cape of Florida which standeth in 25 degrees."[2] Columbus was diverted to the south by the flight of birds. Sebastian Cabot, upon the death of his father, like Columbus, seeking a way to India, ascended Hudson's Bay, and pressed on among icebergs until the mutiny of her crew compelled him to turn back. Thus it was that the first discoverers of America, seeking a way to India, turned aside from the great Continent, the one to the tropics, and the other to the Arctic regions.

In 1495 the Spaniards had established themselves upon the Island of Hayti or Hispaniola, which became the seat of their great power in the Western Hemisphere. It was not, however, until seventeen years later that they became aware of the Continent so near them on the north. In 1512 Juan Ponce de Leon discovered the mainland of Florida on Easter, *Pascha Floridum*, the supposed deri-

[1] John Nichol, LL.D., *Encyclopedia Britannica*, "America."

[2] Hakluyt's *Voyages*, Supplement, 17, 18.

vation of the name. He landed, it is said, at a place called the Bay of the Cross, a few miles north of the site of St. Augustine, took possession, and erected a stone cross in sign of the jurisdiction of Spain. This was to be the place of the first European settlement on the Continent of America, and was to be the source of numerous woes to the English colonists of Carolina.

The first Europeans who trod the soil of Carolina were Spaniards who sailed in 1520 from Hispaniola, seeking in the Lucayos or Bahama Islands a supply of Indians to take back with them to work as slaves in their gold mines, a third part of the nation of Hispaniola having perished within three years after the Spaniards took possession of the island. Two vessels fitted out by Lucas Vasquez de Ailyon for this purpose, driven by tempest, more by chance than with any design of discovery, reached the coast about the latitude of 32 degrees. The adventurers entered a bay, a cape of which they named St. Helena, and a river in its vicinity they called the Jordan.[1] Though the Spaniards had now been at St. Augustine for eight years, the natives of the region do not appear to have known of their presence. When, therefore, the Spanish vessels made to the shore, the natives, astonished as at a miracle, thought some monster had come among them — they never before having seen a vessel. They fled upon the approach of the vessels, but two swift and nimble young Spaniards overtook a man and woman and brought them to the ship. Clothing and loading these with presents and sending them back, the Spaniards gained

[1] Rivers, after a close examination of the accounts of early voyages, old maps, and charts, is not prepared to admit that the "Jordan" is the Combahee, as most writers assert, but concludes that the "Jordan" could not have been far from the Savannah. *Hist. Sketches of So. Ca.* (Rivers), 15.

the confidence of the Indians, and were kindly treated by them. After some stay on the coast and a partial examination of the country, the Spaniards enticed the Indians, whose confidence they had gained, on board their vessels, and when their decks were crowded they suddenly drew up their anchor and unfurled their sails, carrying off to a wretched fate the guests they had received with all the appearances of friendship. One of the vessels on its return foundered at sea, and all on board perished. Many of the captives on the remaining vessel, pining with grief, refused to take food and died before the end of the voyage. Of those who survived, most languished in their bondage and sank under their sufferings. The rest became too feeble for the mines and were distributed among the people of Hispaniola as domestic servants or in the lighter tasks of husbandry.

The countries around the bay into which the ships of Vasquez had entered on the one side were called Duharhe or Gualdapé, and on the other Chicora.[1] Vasquez, who was a citizen of Toledo, a licentiate, professor of judicature, one of the senators of Hispaniola, returning to Spain to procure leave to plant a colony, took with him as a servant one of the Chicoranes, whom he had baptized, giving to him the Christian name Francis and the surname of Chicora. Peter Martyr in his history of the New World says that he sometimes had both Vasquez the master and Chicora his servant as his guests, and retails the most extraordinary stories which they told concerning the inhabitants of Chicora and Duharhe, especially of the latter country, whose inhabitants they said were white, and had a king of giant-like stature and height, called Datha,

[1] Rivers calls attention to the mistake made by several authors in giving the name of Chicora to the whole of this country, and not merely to a part of it, as in the text.

and that the queen his wife was not much shorter than himself. Martyr was not, however, inclined to accept these wonderful tales told by Vasquez, "nor did Francis the Chicorane, who was present," he observes, "free us from that controversie."[1] Indeed, as Rivers observes, the captive seems to have acquiesced in any story his master made.[2]

In the year 1524 Vasquez made another voyage to the coast of Carolina; but the true events of the expedition are not certainly known.[3] It is believed that he reached in safety the place which he had before visited, that one of his vessels was stranded, and that a number of his men whom he sent ashore perished by the hands of the natives — a just retaliation for his treacherous conduct in the previous expedition.

The failure of this expedition and the equally disastrous fate of Narvaez and of De Soto and their companions disheartened the Spaniards, and their abandonment of the country for forty years left it open to exploration and occupancy by adventurers from other European states.

In January, 1524, Giovanni Verrazzano set out on a voyage of discovery in behalf of Francis I of France.[4] He reached the Continent 34 degrees north latitude, and searching for a harbor landed probably in the neighborhood of Cape Fear. He returned to France in July of the same year. Upon this discovery and those made in Canada, the French claimed the greater part of North America under the title of New France: but civil and religious wars at home distracted at the time their attention from

[1] Hakluyt's *Voyages*, Supplement, 620, 621.

[2] *Hist. Sketches of So. Ca.* (Rivers), 16.

[3] Hakluyt's *Voyages*, Supplement, 33; *Hist. Sketches of So. Ca.* (Rivers), 17.

[4] Hakluyt's *Voyages*, vol. III, 295; *Hist. Sketches of So. Ca.* (Rivers), 18.

the New World. Thirty odd years after, Coligny, admiral of France and leader of the Huguenot party, obtained permission from Charles IX to establish a colony of Protestants in New France. Jean Ribault was sent out in command of two of the King's ships and a company of veterans, together with many gentlemen who joined the expedition, to discover a suitable place for the colony.[1]

The course of navigation from Europe to America had continued to follow the direction given to it by Columbus, by way of the Spanish Islands in the West Indies, but Ribault ventured directly across the Atlantic, and on the 30th of April, 1562, reached the Continent in 30 degrees north latitude. He landed at a river he called May, because he discovered it on the first of the month of that name, but it is now known as the St. John's River in Florida. From this point Ribault sailed along the coast towards the north, looking for the River "Jordan," which the Spaniards had visited forty years before; and on the 27th of May he cast anchor in a depth of ten fathoms, at the opening of a spacious bay, which from cape to cape was three leagues wide and formed the entrance to a noble river, which he named Port Royal.

Charmed with the magnificent forests, the stately cedars, the wide-spreading oaks, and fragrant shrubs, they explored the adjacent country; they sailed up the Broad River, and passed probably through Whale Branch uniting with the Coosaws.[2] The Indians fled at first upon the approach of the French, but their timidity was soon overcome by the sight of various articles of merchandise, and they were encouraged by friendly gestures; in their turn they brought presents of deerskins, and baskets made of palm leaves, and a few pearls. They built an arbor of

[1] Hakluyt's *Voyages*, vol. III, 308–319.

[2] *Hist. Sketches* (Rivers), 22.

boughs to shelter their visitors from the heat of the sun and sought with manifest good will to induce Ribault and his party to remain with them. This kindness of the natives Ribault returned by an attempt to capture some of them for the purpose of carrying one or two to France, in accordance with the command of the Queen, as Verrazzano and Vasquez and Columbus had done before. For this purpose he had induced two to accompany him to his ships, but when they perceived that they were to be carried away they escaped, leaving all the gifts they had received.

Ribault then proceeded to take possession of these regions in the name of his king and of his country, and erected a stone pillar engraved with French armorials upon a hillock on an island which is believed to be that now known as Lemon Island, about three leagues up Broad River.[1] Leaving twenty-six of his followers, who volunteered to remain under Captain Albert de la Pierria, whom he appointed to command them, Ribault returned to France to report to Admiral Coligny what he had accomplished and to procure further aid in establishing a permanent settlement.

On the 11th of June, 1562, Ribault and his companions took leave of his garrison and fired a salute to Fort Charles, as they had named the fort they had built, and from whose battlements the flag of France first waved in North America. Ribault arrived in France on the 20th of July, after an absence of five months. He entertained no fear of danger to the small garrison he had left at Fort Charles; but the civil war breaking out in France, his return was delayed.

The natives in the neighborhood of Port Royal were disposed to be very friendly to the French, and the garri-

[1] *Hist. Sketches* (Rivers), 24.

son maintained their friendship by presents of knives, hatchets, clothing, toys and trinkets, and the still more efficacious influence of the Indian dread of their firearms and superior deadly weapons. But the Indians were improvident, planting no more corn than would serve for one season. The safety of the garrison depended, therefore, on their own tilling of the fertile lands adjacent to the fort and laying in a supply of food, for which they had ample time, but with the unthrifty habits of soldiers they were as improvident as the Indians. When, however, their provisions first began to run short they were abundantly supplied by a powerful Indian chief named Ovade, whose friendship they had won; but through their carelessness the provisions thus obtained were accidentally burned. Ovade again came to their assistance, and assured them that as long as he could aid them they should not want. He gave them also some pearls, and silver ore which he said could be found among the mountains toward the north at a distance of ten days' travel. The wealth of the mountains of Northwestern South Carolina and Western North Carolina, which is just now being opened, thus appears to have been known to the Indians at that time.

But the greatest troubles of the garrison left by Ribault were at hand. Captain Albert was a man of imperious temper and rigid in the discipline which he attempted to enforce, while, on the other hand, the privations to which the soldiers were reduced rendered them less subordinate. Albert grew more stern and harsh. A drummer was executed, and another of the garrison banished to an island three leagues from the fort. Upon this the garrison broke into open mutiny, murdered Albert, and bestowed the command upon Nicholas Barre.

Despairing of the return of Ribault, the garrison began to seek the means of venturing upon the ocean in an

attempt to return to France. They had carpenters among them, and a forge and iron and tools. What they needed most were sails and cordage. Resin they procured from the pine, and moss from the oak, with which they calked their vessel. They turned their shirts and sheets into sails, and their Indian friends taught them to make cordage from the inner bark of trees. Unfortunately while taking their artillery, forge, and munitions of war in this weak vessel they took but a small supply of food, though they had an abundance on hand.

Sailing with a favorable wind, they had gone only about one-third of the distance across the Atlantic, when calms befell them. Their provisions were soon so diminished that the daily allowance to each man was but twelve grains of millet. They were soon compelled to eat their shoes and leathern jackets and to drink the water of the sea. Some died of hunger. The boat leaked on all sides and required constant bailing. A storm arose and injured their frail vessel so much that in their despair they ceased their exertions and laid them down to die. Then, inspired with hopes by one more courageous than the rest, they agreed that one should die that the rest might live. Lots were cast, and it fell to Lachere, the man Captain Albert had banished and whose life his comrades had saved, now to die for them. He willingly gave back this boon to his starving friends. Soon after this they met an English vessel and were carried to England.

As soon as peace was partially restored in France, the Calvinists having secured the freedom of worship in the towns they held, Coligny revived his project of colonization, and Laudoniere was dispatched in command of three ships, and reached America in June, 1564. He must have received information of the abandonment of Fort Charles, for he did not visit it again, but proceeded to Florida,

where he built a fort on the May River, which he named Fort Caroline.

This fort was afterwards, while under the command of Ribault, who had returned and superseded Laudonniere, destroyed by the Spaniards from St. Augustine, under Menendez, and the garrison massacred. The story is told that beneath the tree on whose branches Menendez hung his French prisoners was placed an inscription, "I do not this as to Frenchmen; but as to heretics." This was avenged by the Chevalier de Gourges, who sailed from France with an expedition raised at his own expense for the purpose, and hanging the Spaniards to the same trees, altered the inscription to read, "I did not do this as to Spaniards nor as to infidels; but as to traitors, thieves, and murderers."

Thus ended the first attempt to establish a colony of Huguenots in what is now Carolina; but these simple yet heroic people were again to come and to impress their gentle manners, their gallantry, their frugality, and above all their religious tone upon those with whom they were to form the people of South Carolina.

The attempted settlement at Port Royal forms an episode in the history of the territory. It gave to the whole region the name of Carolina in honor of Charles IX of France, and to the river on which it was planted, that of Port Royal. These names are all that remain of Ribault's enterprise. And except these names, and perhaps some tradition which may still have existed among the Indians when the English colonists arrived in the century after, and which may have influenced their conduct to the new adventurers for good or evil, it left no impression whatever upon the history which follows.

No other settlement was effected in Carolina for more than a hundred years after the abandonment of the French

colony at Port Royal. In the meanwhile Sir Walter Raleigh's attempted colonies on the Roanoke in 1585 and 1587 had likewise ended disastrously; but later English colonies had been successfully planted in Virginia in 1607; in Massachusetts in 1620; the New Netherland Company had been formally established on the Hudson in 1614, another settlement by the Dutch at Bergen opposite New York in 1617, permanent settlements in Connecticut by the same people in 1633, and on the Delaware in 1639; Lord Baltimore's emigrants had settled at St. Mary's in 1634. Companies from Massachusetts had spread themselves into Connecticut in 1634–36, and into Rhode Island in 1636–39.

Attention has recently been called to the historical fact that as early as the 10th of February, 1629, French Protestant refugees in England were in communication with Charles I for planting a colony in what is now South Carolina; and that the patent issued to Sir Robert Heath as sole proprietor of this extensive region grew out of the proposals of Soubise, Duc de Fontenay, representing French refugees in England, and of Antoine de Ridonet, Baron de Sancè, his secretary; and that in 1630 a colony of French Protestants actually sailed for Carolina in the ship *Mayflower*. Could it have been, it is asked, the same vessel that carried the Puritans to Plymouth Rock? From some unexplained cause these Huguenots were landed in Virginia, for which miscarriage the owners of the vessel were made to pay £600 damages.[1]

In 1630 a grant was made by King Charles I to Robert Heath of all the territory known as Carolina: but no colony was established under it. The first English colony

[1] Hon. William A. Courtenay. *In Memoriam*, Daniel Ravenel. See also *Coll. Hist. So. Ca.*, vol. I. 199, 200.

planted in what is now South Carolina was that sent out under the charters of 1663–65 of Charles II.

The Spaniards claimed Florida, the northern limits of which were undefined, and Menendez, who had destroyed Fort Caroline and massacred its garrison, had in 1665 laid the foundation of St. Augustine and built the fort of San Mateo, which was so long to be a thorn in the side of the Carolina colonists.

As Rivers observes, notwithstanding the favorable description which Verrazzano had given of our climate and country, and Ribault's account of the beautiful and commodious harbor of Port Royal, a prejudice had arisen in favor of the more northern situations. But the success and prosperity of the colonies already established had awakened great interest in the mother country, and the vast and unexplored territory known as Carolina lying between Virginia admittedly under the domain of Great Britain, and Florida equally recognized as belonging to Spain, with its undefined boundaries, could not be allowed by his Majesty the King of England to remain unclaimed and unoccupied. So in the second year after the restoration, Charles II readily granted to some of his adherents and courtiers to whom he was indebted for distinguished services, and who claimed to be excited "*with a laudable and pious zeal for the propagation of the Christian Faith and the Enlargement of our Empire and Dominions.*" a charter with extensive powers, for all the region lying south of Virginia extending from 31° to 36° north latitude, and westward within these parallels across the Continent, which was to be called Carolina, as it was now said, in honor of his Majesty, the said Charles II of England.

CHAPTER II

European governments claimed their several possessions in America by right of discovery, by occupancy, by conquest, and by treaties with the Indians. It was deemed a sufficient ground for a king, upon which to base a claim, that a subject had sailed along a coast, and perhaps landed a boat's crew and proclaimed possession, and this to warrant the grant of lands beyond the shore, the nature and extent of which were entirely unknown. A foothold once obtained, dominion was asserted by occupancy over so much at least as the number of the colony enabled them securely to hold. Then followed in some instances so-called treaties — bargains by which for a few trinkets the natives were held to have ceded whatever right in the soil they may have had; or else upon some pretext of wrong, war was declared, the natives driven away or slaughtered, and title claimed by right of conquest.

England claimed her possessions as conquered or ceded territory, in which it was held that the King might make, alter, and change the law at will; and that the common law therefore had no allowance or authority in them, they being no part of the mother country, but distinct though dependent dominions. They were subject, however, to the control of the Parliament, though not bound by any act unless particularly named.[1]

[1] Blackstone's *Com.*, vol. I, 108; Jacob's *Law Dictionary*, title "Plantation," vol. V, 139. See the discussion of the doctrine in the U. S. Senate by Calhoun and Webster on the proposition to establish territorial government in New Mexico and California, February 24, 1849.

The governments of the English Plantations or Colonies in America were of three sorts.

1. Royal or Provincial establishments, the constitution of which depended on the respective commissions issued by the crown to the governors and the instructions which usually accompanied their commissions; under the authority of which provincial assemblies were constituted with the power of making local ordinances not repugnant to the laws of England.

2. Proprietary governments, granted out by the crown to individuals in the nature of feudatory principalities with all the inferior regalities and subordinate power of legislation which formerly belonged to the owners of counties palatine; yet still with these express conditions, that the ends for which the grant was made be substantially pursued and that nothing be attempted which might derogate from the sovereignty of the mother country.

3. Charter governments, in the nature of civil corporations with the power of making by-laws for their own interior regulation not contrary to the laws of England; and with such rights and authorities as are specially given them in their several charters of incorporation.[1]

This is the order in which Blackstone stated the three forms of colonial government of England; but chronologically the reverse is the order in which they were established. In June, 1579, Queen Elizabeth issued letters patent to Sir Humphrey Gilbert, authorizing him to discover, occupy, and possess such remote "heathen lands not actually possessed of any Christian prince or people as should seem good to him or them"; but although he disposed of his patrimony and all he possessed in fitting out a fleet to avail himself of this gracious permission of his Queen, the enterprise failed. The first step in the

[1] Blackstone's *Com.*, vol. I, 107–109.

work of English colonization of America was the grant, six years after the permission given to Gilbert, to his half-brother, Sir Walter Raleigh. This grant was in the nature of a charter. It gave to him

"and to his heires and assigns for euer free libertie and licence from time to time and all times for euer hereafter to discouer, search finde out and view such remote heathen and barbarous lands countreis and territories not actually possessed of any Christian Prince nor inhabited by Christian people," ect.

The people in those remote lands he was given power and authority to correct, punish, pardon, govern, and rule,

"according to such statutes, lawes, and ordinaces as shall bee by him the saide *Walter Raleigh* his heires and assignes and euery or any of them deuised or established for the better gouernement of the said people as aforesaid."

Then follows a proviso which in some form is found in all the subsequent charters: —

"So always as the said statutes lawes and ordinance may be as neere as conveniently may be agreeable to the forme of the lawes statutes government or policie of England and also so as they be not against the true Christian faith nowe professed in the Church of England, nor in any wise to withdrawe any of the subjects or people of those landes or places from the allegiance of vs our heires and successours as their immediate soueraigne vnder God."[1]

Under this charter Sir Walter Raleigh dispatched five fleets in succession in the years 1585 to 1587, and planted three small colonies on the coast of what is now North Carolina, which disappeared one after the other and left no trace.

No permanent English settlement was effected in what now constitutes the United States till the reign of James I. In 1606 a charter was given by the monarch

[1] *Charters and Constitutions — The United States* (Poore), 2 vol., 1379–1381.

to Thomas Gates and his associates, certain knights, gentlemen, merchants, and other adventurers, who were to divide themselves into two several colonies. Those from the city of London were to begin their plantations at some convenient place on the coast of Virginia; those from the cities of Bristol and Exeter and the town of Plymouth, at some convenient place on the coast of New England.[1] Under the charter the dominion of Virginia was founded in 1607, and the New England colonies in 1620. That of Virginia and those of the New England colonies subsequently established were the charter governments mentioned by Blackstone, — civil corporations with power of making laws for their own interior regulations subject to the restriction of the charters.

The first British colonies in America were thus established under charter governments. Then followed a series of Proprietary grants. The first of these was of the Island of Barbadoes, which was granted to the Earl of Marlborough by James I, — a grant which was, however, disregarded by his successor, Charles I, who, upon ascending the throne, granted to the Earl of Carlisle a charter of all the Caribbee Islands, including in the enumeration of them that of Barbadoes. This celebrated charter, which formed the precedent of all the Proprietary charters afterwards issued, was dated 2d of June, 1629.[2]

The next Proprietary charter was that by the same monarch in 1630 of Carolina or *Carolana* to Sir Robert Heath. This grant covered all the region lying south of Virginia, extending from 31° to 36° of north latitude and westward within these parallels across the Continent

[1] *Charters and Constitutions — The United States* (Poore), 2 vol., 1888.

[2] Edward's *Hist. of West Indies*, 1, 323; Poyer's *Hist. Barbadoes*, 6-11.

from ocean to ocean.[1] Dr. Daniel Coxe of New Jersey, who claimed this patent through various assignments, and who wrote in 1721 a description of the territory claimed under the grant, observes that "*Carolana* and *Carolina* are two distinct tho' bordering Provinces, the east of *Carolana* joyning to the west of *Carolina*." The former, he states, "was granted by Patent unto *Sir Robert Heath* in the Beginning of the reign of King Charles I which said Sir *Robert* was the attorney general, and by him convey'd to the Earl of Arundel from whom it came by mean conveyances unto the present Proprietary."[2] This admission by Coxe, who was claiming under the Heath grant that the eastern boundary of Carolana was the western boundary of Carolina, was induced doubtless to avoid conflict with the colonies established under the subsequent grants of 1663 and 1665, which covered the same territory, and under which the Proprietors had then occupied and held for fifty years. The grant to Heath, however, distinctly ran to "the ocean on the East." The claims to the province of "Carolana" continued to be prosecuted, but limited in this way to the country west of the settled portion of Carolina, and embracing the Mississippi. Upon the issue of the first charter of Carolina by Charles II the Heath patent was by order of council, August 12, 1663, declared void because of failure to

[1] *Colonial Records of No. Ca.*, vol. I, 6; *Hist. Sketches of So. Ca.* (Rivers), 64.

[2] *A Description of the English Province of Carolana*, by Daniel Coxe, 1721. For abstract of title see *Colonial Records of No. Ca.*, vol. I, 519.

Hawks's *Hist. of No. Ca.*, vol. II, 70. Dr. Daniel Coxe was physician to the queen of Charles II, and also to Queen Anne. He was the ancestor of Tench Coxe of Philadelphia, the statesman and economist, sometimes called the father of the growth of American cotton. Dr. Coxe was also the principal proprietor of West Jersey. "The Southern States," De Bows' *Review*.

fulfil its conditions, there having been under it but a few feeble and unsuccessful attempts at colonization.[1] Then followed the grant of the charter of Maryland to Lord Baltimore, June 20, 1632;[2] and of Maine to Sir Ferdinando Gorges, April 3, 1639.[3]

There were no charters granted during the existence of the Commonwealth in England. Upon the Restoration, Charles II rewarded his supporters, the Earl of Clarendon, the Duke of Albemarle, Lord Craven, Lord Berkeley, Lord Ashley, Sir George Carteret, Sir William Berkeley, and Sir John Colleton, by a patent dated March 24, 1663, granting them the province of Carolina.[4] The next year he issued a patent to his brother, the Duke of York, afterwards James II, giving him the province of Maine and all the lands and rivers from the west of the Connecticut River to the east side of Delaware Bay, *i.e.* the States of New York and New Jersey;[5] and immediately dispatched a fleet to wrest those lands from the Dutch, who had possessed them under the name of the New Netherlands. Later, *i.e.* in 1681, the province of Pennsylvania was granted to William Penn, and so named in honor of Admiral Penn, his father, whose advances of money and services were thus requited.[6]

[1] Chalmers's *Pol. Ann.*; Carroll's *Collections*, vol. II, 278; *Hist. Sketches of So. Ca.* (Rivers), 64. The King and Council declared Heath's charter void; but as it had not been legally so adjudged, Coxe's descendants obtained a recognition of their rights from the Board of Trade, and received from the Crown in 1768, in lieu of their claim to Carolina, 100,000 acres of land in the interior of New York. See *Government of the Colony of So. Ca.* (Whitney); *Johns Hopkins University Studies*, 13 series, 1-11, 24.

[2] *Charters and Constitutions — The United States* (Poore), vol. I, 811.

[3] *Ibid.*, 774.

[4] *Ibid.*, vol. II, 1352; *Statutes of So. Ca.*, vol. I, 22.

[5] *Charters and Constitutions*, vol. I, 783.

[6] *Ibid.*, 1509.

As Virginia was the first instance of a charter government, so it was the first of a Royal government. The charter of the famous London Company having been declared forfeited by the Court of King's Bench upon a writ of *quo warranto* in 1624, a Royal government was set up in its stead. The Island of Jamaica had been taken by the British from the Spaniards during Cromwell's rule. Upon the Restoration, Charles II, to conciliate the affections of the colonists whose valor had annexed so important an appendage to his dominions, appointed as Governor of the island General D'Oyley, to whose exertions the possession of Jamaica was chiefly owing. His commission was dated 13 February, 1661. By his instructions he was to release the island from military subordination, to erect courts of judicature, and with the advice of a council, to be elected by the inhabitants, to pass laws suitable to the exigencies of the colony.[1]

The establishment of a Royal government in Jamaica was hailed as a blessing by the people of that island; but far otherwise was it regarded when, in 1663, such a government was set up in Barbadoes. As this event was not without considerable influence upon the colony of Carolina, we shall have occasion to relate somewhat in detail the circumstances which brought it about. For the present it is sufficient to observe that at the time of the founding of the province of Carolina the three existing Provincial or Royal governments were those of Virginia, Jamaica, and Barbadoes.

The Proprietary charter of Maryland is usually referred to as the model of that of Carolina;[2] but both of these, as well as that of the patent of Charles I to the Earl of

[1] Edwards's *Hist. of West Indies*, vol. I. 171.

[2] Chalmers's *Pol. Ann.*; Carroll. 281; *Hist. Sketches of So. Ca.* (Rivers), 79.

Carlisle for the Caribbee Islands, are based upon that of Sir Robert Heath of *Carolana;* which in its turn followed, but enlarged upon, that of the Earl of Marlborough and that of Sir Walter Raleigh. This last, the patent to Raleigh, which was the first of all the charters, we recollect authorized and empowered Raleigh, his heirs and assigns, to govern and rule by such statutes, laws, and ordinances as he should devise, provided always that such statutes, laws, and ordinances should be as near as conveniently might be agreeable to the laws of England. Sir Robert was empowered in his government to do likewise, but very important additions and restrictions were made to the terms of his grant, and these were followed in all subsequent patents.

"Whereas," declared his Majesty, "our beloved and faithfull subject and servant Sir Robert Heath, Knight, our attorney Generall, kindled with a certaine laudable and pious desire as well of enlarging the Christian religion as our Empire & encreasing the Trade & Commerce of this our kingdom," etc., "we have therefore granted to Sir Robert the territory described: And furthermore the patronages and advowsons of all churches which shall happen to be built hereafter in the said Region Territory & Isles and limitts by the increase of the religion & worship of Christ. Together with all & singular these & these soe amply Rights Jurisdictions privileges prerogatives Royaltyes libertyes immunityes with Royal rights & franchises whatsoever as well by sea as by land within that Region Territory Isles & limitts aforesaid To have exercise use & enjoy in like manner as any Bishop of Durham within the Bp^rick or County Palatine of Durham in our kingdome of England ever heretofore had held used or enjoyed or of right ought or could have hold use or enjoy. And by these presents we make create & constitute the same S^r Robert Heath his heires & assignes true and absolute Lords & Proprietors of the Region & Territory aforesaid & all other the premises for us our heires & successors saveing alwaies the faith & Allegiance due to us our heires & successors," etc.[1]

[1] *Colonial Records of No. Ca.*, vol. I, 5.

The province granted was thus constituted a County Palatine with Sir Robert Heath, his heirs and assigns, as Lords Proprietors. To understand, therefore, the nature of this grant, we must go back to the County Palatine in England. They were three of these, — Chester, Durham and Lancaster. Counties Palatine are so called, *a palatio*,[1] says Blackstone, because the owners thereof, the Earl of Chester, the Bishop of Durham, and the Duke of Lancaster, had in these counties *jura regalia* as fully as the King hath in his palace *regalem potestatem in omnibus* as Bracton expresses it. They might pardon treasons, murders, and felonies, they appointed all judges and justices of the peace, all writs and indictments ran in their names as in other counties in the King's name, and all offences were said to be done against their peace, and not, as in other places, *contra pacem domini regis*. These palatine privileges were in all probability, observes this author, originally granted to the counties of Chester and Durham because they bordered upon inimical countries, Wales and Scotland, in order that the inhabitants having justice administered at home might not be obliged to go out of the county and leave it open to the enemy's incursions: and that the owners being encouraged by so large an authority might be the more watchful in its defence.[2]

Of the three, the County of Durham was the only palatine remaining when King Charles made his grant to Sir Robert Heath — and upon that model was the proposed government of *Carolana*. It was to be a viceregal one. But other important qualifications were prescribed.

[1] The term "Palatine," from *Comes Palatii*, count of the palace, is a title formerly given to some great dignitary of the Royal household. It thus became the title of a governor of some local district with the authority and privileges of Vice Royalty; in England the County of Durham is a County Palatine. 1 *Statutes*, 42.

[2] Blackstone's *Com.*, vol. I, 117.

Raleigh had been empowered to make such statutes, laws, and ordinances as he deemed best; Heath's power was encumbered with a proviso. His laws must receive the assent of the people. He was empowered

"to forme, make, & enact, & publish . . . what lawes souer may concerne the publicke state of the said province or the private profitt of all according to the wholesome directions of & *with the counsell assent & approbation of the Freeholders of the same Province or the Major part of them who when & as often as need shall require shall by the aforesaid S^r Robert Heath his Heires & Assignes & in that forme which to him or them shall seem best, be called together* to make lawes & those to be for all men within the said Province," ect.[1]

To this, however, was added another proviso found also in subsequent charters, which enabled the Proprietors upon emergencies to dispense with the advice of the freemen.

"And because in the government of soe great a Province sudden chances many times happen to which it will be necessary to apply a remedy before that the Freeholders of the sayd province can be called together to make lawes, neither will it be convenient upon a continued title in an emergent occassion to gather together soe great a people therefore." Sir Robert and his heirs and assigns it was declared, "shall & may have power from time to time to make & constitute wholesome and convenient Ordinances within the Province aforesaid . . . which Ordinances we will that they be inviolably observed within the sayd Province under the paines expressed in them, soe as the sayd Ordinances be consonant to Reason & not repugnant nor contrary but (as conveniently may be done) consonant to the laws, statutes, & rights of our Realme of England as is aforesaid soe alsoe that the same Ordinances extend not themselves against the right or interest of any person or persons or to distrayne, bind or burden in or upon his freehold goods or chattels or to be received anywhere than in the same Province or the Isles aforesay'd."[2]

There was also this peculiar provision which was followed in the charters of Maryland and Carolina:—

[1] *Colonial Records of No. Ca.*, vol. I, 8.
[2] *Ibid.*, vol. I, 8, 9.

"Furthermore least the way to Honours & Dignityes may seem to be shutt & altogether barr'd up to men honestly borne & are willing to undertake this present expedition & are desirous in soe remote and far distant a Region to deserve well of us & of our kingdomes in peace & warre for that doe for ourselves our heires & successors give full & free power to the forsayd Sr. Robert Heath, Knight, his heires & assignes to confere favours, graces & honours *upon those well deserving citizens that inhabit within the forsayd province* & the same with whatever titles & dignityes (provided they be not the same as are now used in England) to adorne at his pleasure,"[1] etc.

With these precedents before him, Charles II proceeded to reward the friends who had stood by him in his adversity. It is well to recall who these were.

The Earl of Clarendon had been his companion and counsellor, in exile, and after Cromwell's death had materially contributed to the reëstablishment of the monarchy. His daughter was subsequently married to the Duke of York, afterwards James II, and their children Mary and Anne became Queens of England. The history of this great man is too well known to need any extended notice here.

George, Duke of Albemarle, Master of the Horse, and Captain General of the Forces, was the famous General George Monk. No single person deserved more the title of the Restorer of the King, than he. His history is also well known.

William, Earl Craven, was an elderly man who had been distinguished in love and war thirty years before, who had led the forlorn hope at Crentznach with such courage that he had been patted on the shoulder by the great Gustavus, and who was believed to have won from a thousand rivals the heart of the unfortunate Queen of Bohemia.[2] He had been elevated to the peerage by Charles I, and having afterwards during the civil wars

[1] *Colonial Records of No. Ca.*, vol. I, 11.

[2] Macaulay's *Hist. of England*, IV, 42.

zealously and ably espoused the Royal cause, had been, upon the Restoration, created Earl.[1] For twenty odd years more, he was to serve the Stuarts and to be last to stand by that family. He was to survive all the other grantees.

John, Lord Berkeley, like Craven, had long been in the service of the Royal family. He had been knighted in 1638, by Charles I, and upon the breaking out of the rebellion, had been one of those very good officers (as Lord Clarendon calls them) who were ordered to form an army in the west. In the King's service he had achieved great successes. He had stood so high in the estimation of the Queen, that her Majesty had selected the city of Exeter under his protection as the birthplace of the Princess Henrietta Maria; and had especially recommended "Jack Berkeley" to the favor of her Royal husband. He had been employed in the endeavor to negotiate terms for the unfortunate Charles. During the Commonwealth, Sir John remained in exile with the Royal family. Upon the restoration of the monarchy his Lordship was sworn of the Privy Council.[2]

Anthony Ashley Cooper, Lord Ashley (after whom the Cooper and Ashley rivers have been named), had been particularly recommended to Charles II by General Monk, as a person well fitted to be one of his council. Although regarded as a politician who had espoused the cause of monarchy, then of the Parliament, and then of monarchy, as it suited his ambition, yet he long retained the favor and confidence of the King, and by his distinguished abilities became Chancellor of England, and was made Earl of Shaftesbury. He was again to forfeit the Royal confidence, and to die in exile. He was the constant friend and patron of the philosopher Locke, to whom

[1] Burke's *Peerage*. [2] *Ibid.*

was committed the framing of the fundamental laws for the government of Carolina. This nobleman was most influential in the early policy of Carolina.

Sir George Carteret had been a naval officer of the highest reputation and of great influence. He had retired from the navy, and withdrawn with his family to Jersey, but returned to the aid of the Royalists, and was made a baronet by King Charles, May 9, 1645. He was Governor of Jersey when ruin befell the Royal cause, and afforded there an asylum to the Prince of Wales, the Earl of Clarendon, and other refugees. He afterwards defended the island in the most gallant manner against the Parliamentarians, and surrendered ultimately only upon receiving the command of King Charles II so to do. Elizabeth Castle, in the Island of Jersey, was the last fortress that lowered the Royal banner. He was also of the Privy Council.[1]

Sir John Colleton had been a captain of foot and a most active partisan of royalty in the beginning of the civil wars. Receiving from Lord Berkeley a colonel's commission to raise a regiment for his army in the west, he succeeded in doing so in ten days, and expended for the King's service £40,000 besides losing considerably more than that sum by sequestration. After the success of the parliamentary forces he retired to Barbadoes. There he still maintained the Royal cause, and upon the Restoration, with twelve other gentlemen of that island, among them Sir John Yeamans, who with him was to take an active part in the early settlement of Carolina, secured the dignity of knighthood.[2]

Sir William Berkeley, brother of Lord Berkeley, was for many years the able and loyal Governor of Virginia. He

[1] Clarendon's *Hist. of the Rebellion*, vol. II, 534.

[2] Burke's *Peerage;* Poyer's *Barbadoes*, 76.

espoused the cause of Charles I against the Parliament, refused to hold office under Cromwell, and induced the Colony boldly to adhere to Charles II as their sovereign while he was in exile and at a time when the power of Parliament was supreme. In remembrance of this the King is said to have worn at his coronation a robe of Virginia silk.[1]

The patent to these favorites of the King began with the usual declaration as to the motives of the grant; viz. that the grantees were incited by a laudable and pious design of propagating the Christian religion and the enlargement of the English empire and dominion.

To carry out these pious and patriotic views, the grantees were given "all that territory, or tract of ground called Carolina scituate, lying, and being within our dominions of America, extending from the north end of the Island called Lucke Island, which lieth in the Southern Virginia seas, and within six and thirty degrees of the north latitude and to the west as far as the South Seas and so southerly as far as the River Matthias which bordereth upon the coast of Florida, and within thirty-one degrees northern latitude and so west in a direct line as far as the South Seas aforesaid."[2] This territory with all that it contained, the grantees were "to have, use, and enjoy, and in as ample a manner as any Bishop of Durham in our kingdom of England ever heretofore held used or enjoyed or of right or could, have, use or enjoy."[3]

The province of Carolina was thus constituted, as its predecessor of *Carolana* had been, a County Palatine, and

[1] *Hist. Sketches of So. Ca.*, 64, note; Cooke's *Virginia, Am. Commonwealth Series*, 182-192; *Genesis of the United States* (Alexander Brown), 327, 328.

[2] *Statutes of So. Ca.*, vol. I, 22; *Colonial Records of No. Ca.*, vol. I, 102; *Charters and Constitutions — The United States*, vol. II, 1382.

[3] *Ibid.*

as Sir Robert Heath had been, the grantees too were constituted Lords Proprietors. Like him they were authorized to make any law "according to their best discretion *of and with the advice assent and approbation of the Freemen of the said Province or of the greater part of them or of their delegates or deputies*," whom for the purpose of enacting laws the Lords Proprietors should "*from time to time assemble in such manner and form as to them should seem best.*"[1] This most important provision, common also to the charters of the Earl of Carlisle and of Lord Baltimore, though subject, as we shall see, to evasion, saved the province of Carolina from the impositions of the absurd Fundamental Constitutions of Locke. Like Sir Robert Heath, the grantees under this charter were empowered upon sudden occasions without awaiting the assent of the freemen to make orders and ordinances for the keeping of peace and better government of the people, provided that such ordinances should be reasonable and not repugnant to the laws of England; but strange to say, while the Carlisle patent forbade any such temporary law to affect either the liberty or the property of the citizen without the assent of the freemen assembled, and while the Baltimore patent went further, and declared that such laws must not extend to limit, restrict, or do away with the right or interest of any person in *limb, life*, freehold, or chattels, the Carolina charter protected neither life, limb, nor liberty; it forbade only that such ordinances should extend "to the binding, charging, or taking away of the right or interest of any person or persons in their freehold goods or chattels whatsoever."[2]

[1] *Statutes of So. Ca.*, vol. I, 24; *Colonial Records of No. Ca.*, vol. I, 23; *Charters and Constitutions* (Poore), vol. II, 1384.

[2] *Colonial Records of No. Ca.*, vol. I, 25; *Charters and Constitutions*, vol. II, 1385; *Statutes of So. Ca.*, vol. I, 25.

Not to encumber these pages with tracing further the similarity in the provisions of the three charters, we confine ourselves to those of the Carolina patent. It was expressly enjoined that the province of Carolina should be of his Majesty's allegiance and that all subjects who should be transported into the province, and the children born there, should be denizens and lieges of the Kingdom of England. License was given the Proprietors and the colonists to trade with the natives and to transport into the province goods, wares, and merchandise, and all things necessary for food and clothing without let or hindrance, saving the customs and duties due according to the several rates of the places from whence the same should be transported. They were also licensed to bring into any of his Majesty's dominions certain specified articles: silks, wines, currants, raisins, capers, wax, oil, and olives, without paying any custom import or duty therefor for seven years from the first importation of four tons of any of the said goods; and to export therefrom custom free all sorts of tools which should be useful or necessary for the planters there.

The Lords Proprietors were authorized to establish ports of entry and to assess and impose customs and subsidies for the goods imported. They were authorized to build forts, castles, cities, and towns, and to appoint governors, magistrates, sheriffs, and other officers, civil and military; to grant charters of incorporation and erect markets and marts and fairs and to hold courts baron. They were given power to make war and pursue their enemies; to exercise martial law in case of rebellion, tumult, or sedition. It was expressly stipulated that the inhabitants should not be compelled to appear or answer to any suit or plaint in any place out of the province *other than in England or Wales*.

The Proprietors were granted the patronage and advow-

sons of all churches and chapels which, as the Christian religion should increase, might be erected, together with the license and power to build and found churches, chapels, and oratories, and to cause them to be dedicated and consecrated according to the ecclesiastical laws of England. These powers they were to use and enjoy in the same manner as the Bishop of Durham exercised his in England.

The Church of England was thus established in the province: but as in the state of religious controversy which prevailed at the time it was expected that many dissenters would seek the new colony if liberty of conscience was protected, the charter went on to provide that "because it might happen that some of the people of the Province could not in their private opinions conform to the publick exercise of religion according to the liturgy form and ceremonies of the Church of England or take and subscribe the oaths and articles made and established in that behalf," the Lords Proprietors should have full liberty and authority to grant to such persons "who really in their judgments and for conscience sake cannot or shall not conform to the said liturgies and ceremonies and take and subscribe the oaths and articles . . . such indulgencies and dispensations as in their discretion they might see fit and reasonable."

But the feature for which this charter is best known is that which follows the charter of Sir Robert Heath, and is found also in Lord Baltimore's patent. It declares that "*because many persons born or inhabiting in the said Province for their deserts and services may expect and be capable of marks of honour and favour which in respect of the great distance can not be conveniently conferred*" by his Majesty, it was the Royal pleasure to give to the proprietors full power and authority, "to give . . . and confer *upon such*

of the inhabitants of the Province as they should think to merit the same, such marks of favour and titles of honour as they should think fit so as these titles of honour be not the same as are enjoyed by or conferred upon any subjects of this our Kingdom of England."[1]

Such was the first charter of Carolina. It attempted to establish a miniature government like to that of England, with the Lords Proprietors representing the Royal authority and possessing the viceregal powers and authorities of a Palatine; an aristocracy to correspond with that of the mother country and a House of Commons to be elected by the freemen.

It happened that just at this time complications growing originally out of the claim of the Earl of Marlborough to the Island of Barbadoes as antecedent to the Carlisle patent, but afterwards becoming involved in controversies following the civil war, and disasters by hurricanes and other causes, culminated in loss to that colony but to the great assistance in the settlement of Carolina. The influence which this Barbadian element had upon the settlement of Carolina renders a brief allusion to the causes of this emigration interesting, if not necessary, to any historic account of its development.

During the first stages of the civil war in England, Barbadoes had been an asylum for both the Royalists and the Parliamentarians who sought to avoid the contest at home, and emigration from the mother country to this island during the commotions in England was very great. These refugees planted themselves without the license of any one, and the Governor for the time being granted lands to all who applied on receiving a gratuity to himself. The Royalists at this time formed by far the most consid-

[1] *Statutes of So. Ca.*, vol. I, 28; *Charters and Constitutions* (Poore), vol. II, 1387; *Colonial Records of No. Ca.*, vol. I, 29.

erable part of the people; but the two parties mutually agreed to avoid all political controversy and live together on terms of reciprocal friendship and good will. This happy condition of things, however, could not last; the fierce strife at home soon extended to the West Indies; Barbadoes became the scene of civil war and was for a time reduced by the parliamentary forces. On the reëstablishment of the Royal authority his Majesty, as we have said, honored thirteen gentlemen of Barbadoes with the dignity of baronetage for their loyalty and sufferings during the civil war.[1] Among these were two whose names are associated with the early history of Carolina, — Sir John Colleton and Sir John Yeamans.[2] Of Sir John Colleton we have already spoken. Sir John Yeamans was the eldest son and heir of Robert Yeamans, alderman of Bristol, who was imprisoned and executed in 1643 by order of Nathaniel Fiennes, son of Lord Saye, who had been appointed Governor of Bristol by the Parliament.

But while conferring these empty titles, the King turned a deaf ear to the planters who had loyally stood by him in the time of his need and whose estates were now called in question. The controversy in regard to the conflicting claims of the Earls of Marlborough and Carlisle was again renewed. In vain the planters pleaded to his Majesty that they, his loyal subjects, had repaired to Barbadoes as to a desolate place and had by their industry obtained a livelihood: that if they should now be left to ransom themselves and compound for their estate, they must leave the country and the plantations which yielded his Majesty so great a revenue. To no such appeals did Charles the Second ever listen. Between the several claimants there was an opportunity for raising a revenue for himself, and

[1] Lecky's *Eighteenth Century*, vol. II, 23.

[2] Poyer's *Hist. of Barbadoes*, 76; Hewatt's *Hist. of So. Ca.*, vol. I, 52.

this became the only aim of the King's ministers. A permanent and irrevocable revenue of four and a half per cent on the produce of the island was levied, to be applied towards the satisfaction of the claims arising under the Carlisle and Marlborough patents and then to be placed at the disposal of the crown.

The planters of Barbadoes were deeply offended at this treatment. Many of them had been obliged to quit their native country because of their support of the Royal cause; yet in this settlement they perceived a regard for every interest concerned but their own.

While the Parliamentarians had been in the ascendant, they had passed the famous act which laid the foundation of the navigation system to which Great Britain is chiefly indebted for her opulence and maritime strength, but which was to have an inimical effect upon the American colonies and a great influence in estranging them from the mother country. This act, which prohibited any foreign nation from trading with any of the English plantations without a license from the Council of State, fell with great severity upon the sugar colonies, against which it was indeed chiefly aimed, and was regarded as a chastisement inflicted on them by the Commonwealth for their loyalty to Charles. The colonists of the Sugar islands were filled with amazement and indignation on finding the provisions confirmed upon the restoration of that monarch. Cromwell had put an end to their foreign trade, and now Charles was taxing them out of their estates. Many planters determined to leave Barbadoes, and they turned to the proposed colony in Carolina.

On the 19th of June, 1663, Sir John Colleton, then in London, addressed a communication to the Duke of Albemarle, stating that divers people desired to settle and plant his Majesty's province of Carolina under the patent

granted, but that one Mr. Mariot, steward to the Duke of Norfolk, had set up a claim grounded upon the patent to Sir Robert Heath.

This, he says, "will certainly hinder that publique worke which is intended by the settlement and planting of Carolina for the persons that at present designe thither expect liberty of conscience and without that will not goe w^ch^ by the patent to S^r^ Robert Heath cannot bee granted them and they cannot settle under the patent least the other gentlemen shall give them trouble or disturbance — so that there is a necessity of the present removall of that obstacle which is humblie left to the consideracon of yo^r^ Grace and the noble persons concern'd."[1]

Upon this, on the 12th, the Privy Council ordered that his Majesty's Attorney General should proceed either by inquisition or *scire facias* to revoke all former grants of the province; and that in future a clause should be inserted in all grants, that if within a certain number of years no settlement was made, the grant should become void.[2]

While Sir John Colleton was thus removing the obstacle presented by the claims under Sir Robert Heath's grants, Colonel Modiford, who had been Governor of Barbadoes, and Peter Colleton, were preparing and submitting proposals for the settlement of a Barbadian colony in the province. Without waiting for the acceptance of their proposals, they sent out an expedition in the ship *Adventurer*, Captain Hilton, to explore the coast of Carolina. The expedition sailed from Spekes Bay, Barbadoes, August 10, 1663. On Thursday, 3d September, Hilton entered a harbor, "and found that it was the River *Jordan*, and was but four Leagues or thereabouts N-E from Port Royal, which by the Spanyards is called *St Ellens*; within

[1] *Colonial Records of No. Ca.*, vol. I, 34. [2] *Ibid.*, 42.

land both Rivers meet in one." This was doubtless the Broad River. There the expedition remained some days, endeavoring to rescue a party of Englishmen who, they learned from the Indians, were held on shore by the Spaniards. Failing in this, Hilton sailed to the Cape Fear, and after remaining there exploring the country he returned to Barbadoes on the 6th of January, 1663–64. His *Relation* of his voyage and discoveries was published in London in 1664.[1] The Proprietors, however, did not accept the proposals as made by Colonel Modiford and Peter Colleton, under whose auspices the expedition was made, and nothing came of this attempt at a settlement of the new province. Modiford turned his attention to Jamaica, where he settled with his large fortune, and found an ample field for the employment of his capital, talents, and industry.[2]

[1] *Year Book City of Charleston*, 1884 (Courtenay), 227.

[2] Poyer's *Hist. of Barbadoes*, 68.

CHAPTER III

1663–69

As early as 1660 a company from Massachusetts had found their way to the Cape Fear, then known as Charles River, and planted themselves on its borders. These men were merely adventurers, who came under no authority, and claimed under no grant. They made some slight examination of the country near the mouth of the river only, and determined to occupy it for the purpose of rearing cattle. An effort was made to secure the co-operation of some of their friends in England in bearing the expense, and some individuals residing in London were induced on their representation "to share in the enterprise." The larger portion of the company, however, was composed of New England men. It is not certainly known how long these adventurers remained; but they had abandoned the country before Hilton's arrival, and left a writing upon a post to the disparagement of the land and to the discouragement of all those that thereafter should come to settle there.[1]

The Lords Proprietors in May, 1663, met to devise their plans. The first measure adopted was that of a contribution of funds in the nature of a joint stock company for the transportation of colonists. Their second was the issu-

[1] Hawks's *Hist. of No. Ca.*, vol. II, 73; Hilton's *Voyage; Year Book Charleston* (Courtenay), 1864, 249; *A New Voyage to Carolina* (Lawson, 1709), 75.

ing of proposals upon the most liberal terms to encourage emigration to their territory. Publicity was given to these proposals, not only to obtain colonists under their charter, but also to counteract and warn the public against other proposals made in London by the New England adventurers, claiming title by occupancy — a singular claim, truly, for those who had not only abandoned the lands to which they had never had any legal rights, but had taken the pains to warn all others of their worthlessness. The Proprietors also took care to send to every one in London connected with the New England company copies of both the proposals purporting to have been made in the name of that company and of their own. A cautious reply was made by the New Englanders, which neither admitted nor denied the title of the Proprietors, but confessed their own abandonment of the country.

It now behooved the Proprietors, under the rule they themselves had had laid down by the Privy Council, to show some effort to settle the great domain granted them, and in order "that the King may see that wee sleepe not with his grants,"[1] they sent a commission to Sir William Berkeley, one of their number, then Governor of Virginia, constituting him Governor also of "All that Terrytory or tract of ground now called the Province of Carolina syctuate lyeing, and being within his Majestys Dominion in America extending from the north end of the Island called Lucke Island which lyeth on the Southern Virginia Seas and within 36 degrees of Northern Lattitude and to the west as far as the south seas aforesaid;"[2] that is, the territory between Virginia and Albemarle Sound, and which was by subsequent instruction to Drummond, the successor of Berkeley, to contain 1600 square miles — Albemarle

[1] *Colonial Records of No. Ca.*, vol. I, 55.
[2] *Ibid.*, vol. I, 48.

County. They also determined at this time to lay off another county,—that of Clarendon; so on the 1st of November, 1664, Robert Samford (Sandford) was commissioned Secretary and Chief Register of the County of Clarendon, and on the 24th John Vassal was commissioned the Governor General,[1]—but its boundaries were not defined.

Sir John Yeamans had been in negotiation with the Proprietors, through his son Major William Yeamans, on behalf of himself and some eighty-odd other Barbadians, which resulted in the execution of an agreement on the 7th of January, 1664–65, entitled "The concession and agreements of the Lords Proprietors of the Province of Carolina to and with the adventurers of the Island of Barbadoes and their associates of England, New England, the Carribbia Islands and Barmothos[2] to the Province of Carolina and all that shall plant there. In order to the settling and planting of the countye of Clarendine, the county of Albemarle and the county of . . ., which latter is to be to the southward and westward of Cape Romania all within the Province aforesaid."[3]

These concessions constituted a very elaborate system of government for the proposed colony, and in pursuance of the agreement Sir John Yeamans was on the 11th of January commissioned Governor of the "County of Clarendon near Cape Faire and of all that tract of ground which lyeth southerly as farr as the River St Mathias which borderth upon coast of Florida within 31 degrees northern lattitude and so west as farr as the South Seas as also all Islands and Islets Rivers and Seas within the said bounds, and our said Province of Carolina. With power to nominate appoynt and take to you 12 able men at most, 6 at

[1] *Colonial Records of No. Ca.*, vol. I, 72, 73.

[2] Bermuda "still vexed Bermoothes." *The Tempest*, 1–2.

[3] *Colonial Records of No. Ca.*, vol. I, Prefatory Notes xiv, 75–92.

least to be of your councile or assistance or any even number between 6 and 12 unless we have before made choyce or shall chuse all or any of them." Yeamans was also made Lieutenant General of the county and tract of ground aforesaid.[1]

By a memorandum at the time, it was agreed that although the County of Clarendon and all the tract of ground as far as the River St. Matthias and west as far as the South Seas was to be for the present under Sir John Yeamans, "yit notwithstanding it is ment and intended that that part of it which is about to be settled to the southward and westward of Cape Romania be a distinkt Government from the county of Clarendon, and that their be a distinkt deputy Governor for the present and that it be called the county of Craven, and as soon as it shall be settled by the said Sir John Yeamans or any other that there be a distinkt Governor commisionated to govern there."[2]

Some doubts, as we have seen, still lingered in regard to the titles under Sir Robert Heath's patent, and it was doubtless to settle these, as well as to enlarge the extent of the territory in America which England was disposed to claim, that a second charter was granted to the same noblemen on the 13th of June, 1665. The grant to Sir Robert Heath, which had not been formally declared forfeited at the time of the first charter of the present Proprietors in 1663, had now been so declared by the King in council, and it was deemed safest therefore for the present Proprietors to obtain another, dated subsequently to that declaration. The limits of the province were now enlarged to 29° in the south, instead of to the River St. Matthias (St. John's) and 36° 30′ on the north, includ-

[1] *Colonial Records of No. Ca.*, vol. I, 97.
[2] *Ibid.*, vol. I, 93.

ing all within these parallels from the Atlantic to the "South Seas"[1] (Pacific): that is, besides the present State of South Carolina, the States of North Carolina, Tennessee, Georgia, Alabama, Mississippi, Arkansas, Louisiana, and Texas, the Indian Territory, New Mexico, Arizona, and the lower part of the State of California: a region which has in a great measure been peopled from the colony established under this charter, and governed by the political ideas emanating from the point of settlement at the junction of Kiawha and Wando rivers — the city by the sea — a region which, it will be observed, is almost coincident with the territory of the Confederate States in the War of Secession.

Rivers points out other differences between the charter of 1663 and that of 1665. In the first the territory was spoken of as one province. In the second, authority was given to subdivide it into counties, baronies, and colonies with separate and distinct jurisdictions, liberties, and privileges.

There is also some change in the terms of the clause requiring the assent of the freemen to the enactment of laws. In the first charter it was provided that all laws should be made "with the advice assent and approbation of the freemen of the *said province*."[2] In the second it was

[1] *1st Statute*, 32; *Colonial Records of No. Ca.*, vol. I, 102.

[2] The term "province" is defined to be "an out country governed by a Deputy or Lieutenant" (Jacob's *Law Dictionary*), and it has been said that the term is only properly applied to territories over which Governors were appointed by the King; and that the term "colonies" is properly applicable only to those in which the Governor was elected by the inhabitants. *Government of the Colony of So. Ca.* (Whitney); *Johns Hopkins University*, 13 series, 1-11, 22. But the terms "province" and "colony" are used convertibly throughout the *Statutes of the Proprietary Government of South Carolina*. More strictly speaking, it was the province of Carolina, and the colonies on the Ashley and at Albemarle, and afterwards the colonies of North and South Carolina.

made to read "by and with the advice assent and approbation of the freemen of the *said province or territory or of the freemen of the county barony or colony for which such laws or constitutions shall be made or the greater part of them.*" The intention of this was no doubt to allow the establishment of several colonies in the territory granted, but in doing so to secure the assent of the freemen of any such separate colony to the particular laws as a prerequisite to their enactment.

Another modification was in the article in regard to religion. In the first charter the Proprietors were given power to grant indulgences and dispensations to such persons who really in their judgment and for conscience' sake could not conform to the liturgy and ceremonies of the Church of England. Sir John Colleton in his communication to the Duke of Albemarle had intimated that the adventurers from Barbadoes expected something more explicit on this point; and some modification was now made, but it was very indefinite, and still left the extension of indulgences to the Proprietors. "And because," said the new charter,[1] "it may happen that some of the people and inhabitants of the said Province cannot in their private opinions conform to the publick exercise of religion according to the liturgy form and ceremonies of the church of England or take and subscribe the oaths and articles made in that behalf, and for that the same by reason of the remote distances of those places will as we hope be no breach of the unity and conformity established in this nation," it therefore granted to the Proprietors "full and free licence liberty and authority by such ways and means as they shall think fit to give and grant unto such person or persons inhabiting and being within the said province or territory . . . such indulgences and

[1] *Statutes of So. Ca.*, vol. I, 40.

dispensations" as the Proprietors "shall in their discretion think fit and reasonable, and that no person or persons *unto whom such liberty shall be given* shall be in any way molested punished disquieted or called in question for any difference in opinion or practice in matters of religious concernment who do not actually disturb the civil peace of the province county or colony that they shall make their abode in: but all and every *such* person or persons," that is, such person as the Proprietors should indulge, "may from time to time and at all times freely and quietly have and enjoy his or their judgments and consciences in matters of religion throughout the said province or colony, they behaving peaceably and not using this liberty to licentiousness nor to the civil injury or outward disturbance of others." This second charter thus did nothing more than grant to the Proprietors the right and power to use their own discretion in the matter of religious liberty. It of itself granted to no inhabitant indulgences or dispensations or guaranteed religious liberty. It turned this great matter over to the Proprietors, guaranteeing only to them the power to act in regard to it.

Sir John Yeamans, on the 11th of January, 1664–65,[1] had been commissioned as Governor of the County of Clarendon and of all the territory as far as Florida. Under the commission a company "of adventurers for Carolina" was organized at Barbadoes, the members of which were to be entitled to 500 acres for every 1000 pounds of Muscovado sugar contributed.[2] In October following Yea-

[1] Throughout the Proprietary Government, and indeed until 1752, for the months of January and February, and to the 24th of March, dates are thus given, the alteration in the calendar which formed what is usually called the old and the new style not having been adopted in England until 1752, by act of Parliament of 1751. See note to page 84, *Statutes of So. Ca.*, vol. II.

[2] See the form of receipt given for the sugar, and claim for the land,

mans sailed from Barbadoes with his company in a "Fly boate of about 150 Tonns accompayned by a small Friggate of his owne and a Sloope purchased by a common purse for the service of the Colonyes."[1] These small vessels were soon separated at sea by a great storm, but were brought together again in the beginning of November and cast anchor before the mouth of Charles (Cape Fear) River, near Cape Fear, in the County of Clarendon. Upon entering the river the fly boat went aground and was wrecked. No life was lost, but the greater part of their provisions, victuals, clothes, and of the arms and ammunition furnished by the Lords Proprietors for the designed settlement was swept away in the waters.

The coast of Carolina from Cape Fear to St. Augustine was doubtless well known to the Spaniards, and still better to the pirates of all nations, who infested it and found shelter in its numerous bays and inlets. Its principal points were all named by the Spaniards. The first point south of Cape Fear was called Cape Romano. The bay into which the Kiawha and the Wando emptied was St. George's Bay. Then came St. Ellen's Sound and Port Royal, the River Jordan, the Savannah, and St. Matthias (the St. John's). Between the Indians on the coast and the Spaniards in Florida, there was close and more or less friendly intercourse. But the coast and country now included in the grant to the Proprietors were entirely unknown to Sir John Yeamans and his party. Upon arriving at Cape Fear, Yeamans's first purpose was therefore the examination and exploration of the country. For this purpose his intention was to repair the frigate, which, together with the sloop, had got safely into the

Daleho's *Church Hist.*, 14, in which Yeamans styles himself *Lieutenant General and Governor of the Province of Carolina.*

[1] *Colonial Records of No. Ca.*, vol. I, 119.

river, and to send her back to Barbadoes while he with Sandford, who had been appointed Clerk and Register of the new county, and who accompanied the expedition, and some other gentlemen of the party who offered to join them, proceeded upon a voyage of discovery to the southward. The great necessities of the colony, however, demanded that the sloop should first be sent to Virginia for supplies, and Sir John, permitting it to go, returned himself to Barbadoes in his frigate. The purpose of an exploration for the site of a southern settlement was not, however, abandoned. He left Sandford to carry it out, directing him to employ for the purpose either the sloop upon her return from Virginia, if in a fit condition for the purpose, or to hire a vessel of Captain Edward Stanyon, then in the harbor, bound for Barbadoes upon her return, whichever should first happen, and for this purpose he left also a commission for Sandford putting him in command of the expedition.

The sloop upon her return from Virginia was found unfit for the service. Captain Stanyon, in returning from Barbadoes, became demented, leaped into the sea, and was lost. His little vessel was, however, by a miraculous providence brought safely into port, and Sandford had now a vessel with which to undertake the expedition. Its burden, however, scarce exceeded fifteen tons.

Happily, Sandford has left us a most admirable account of the voyage, so clear in its statement that we may follow him and his company from point to point as he describes in quaint style the country, with its vast expanse of green marsh resembling a rich prairie, its broad and noble arms of the sea, rivers, and innumerable creeks fringed with oak and cedar and myrtle and jasmine — all now so familiar to us — as it appeared when first

visited by those who proposed to make this new country their home.[1]

On the 14th of June, 1666, near six months after the date of his commission, Sandford entered on his charge and on the 16th left Charles River in the Cape Fear, and sailed along the coast. He was accompanied by Captain George Cary, Lieutenant Samuel Hardy, Lieutenant Joseph Woory, Ensign Henry Brayne, Ensign Richard Abrahall, Mr. Thomas Giles, and several others to the number of seventeen besides himself. He took with him a small shallop of some three tons, belonging to the Lords Proprietors, in which he placed Ensign Henry Brayne, of some experience in sea matters. The shallop parted company with Sandford's vessel on the night of the 19th, it being very cloudy and dark.

On the 22d Sandford made land, and entered a fair river, and sailing up about four or five miles he came to anchor, when a canoe with two Indians approached. The Indians came aboard Sandford's vessel and informed him that this was the country of Edistoh, and that the chief town or seat of the Cacique was on the western shore somewhat lower down towards the sea, from which he supposed this to be the same river that Hilton had mentioned as the River Grandy, which he saw from sea, but did not enter. Sandford named it Harry Haven, in honor of his lieutenant. The next day, the 23d of June, he went with his boat into a creek on the east shore about a mile up, and landed. Then, according to instructions, he took formal possession by the ancient ceremony of turf and twig of the whole country from the latitude of 36° north to 29° south and west to the South Seas, by the name of the province of Carolina for his Maj-

[1] *Year Book City of Charleston* (Courtenay), 1885, 262; *Colonial Records of No. Ca.*, vol. I. 118.

esty Charles the Second, King of England, and to the use of the Proprietors. Sandford does not mention whether his landing was upon the eastern or western bank, so that it is impossible now to know whether this seisin for the King and the Proprietors was taken on Wadmalaw or Seabrook Island; but doubtless this formal entry into the territory of the new province was made in the North Edisto. He explored to some extent on both sides of the creek, passed through several fields of maize or Indian corn, and following the guidance of a small path was brought to some of the Indian habitations. The next day he went a few miles up the main river to the North Edisto, and finding a branch on the east side he put in there to examine the land. This he found firm and dry, a flat black mould with a scarce discernible mixture of sand founded on marl or clay. The land he esteemed very profitable and tillable, and some of his company discovered an Indian planted field, which they told him "bore as tall Maiz as any." He rowed up this creek and, besides the swamps, saw and ranged through very spacious tracts of rich oak land, though not yet past the oyster banks and frequent heaps of shells near the salt water. On his return down the river he stopped at the landing-place nearest to the chief seat of the Edistohs, so that the Indians might with less trouble come aboard to trade.

While lying there, a captain of the Nations, named Shadoo, one whom Hilton had carried to Barbadoes, was very earnest that some of the company would go with him and lie at night at his town, which he told them was but a small distance away. Lieutenant Harvey, Lieutenant Woory, Mr. Thomas Giles, and Mr. Henry Woodward offering themselves to go, and some Indians remaining on board, Sandford permitted their doing so. They returned the next morning, much pleased with their entertainment,

and especially with the richness of the land through which they had marched and the delightful situation of the town. The Cacique himself, however, had not appeared. His state was supplied by a female who received the party with gladness and courtesy. This induced Sandford to go himself, so, taking with him Captain George Cary and a file of men, he marched thither, followed by a long train of Indians, of whom some one or other always presented himself to carry Sandford on his shoulders over any of the branches, creeks, or damp places. The march tended to the southward of the west and consequently led near the sea coast, yet, says Sandford, it opened to their view so excellent a country both for woodland and meadow as gave singular satisfaction to all the company. Having entered into the town, the party were conducted into a large house of a circular form (their generall house of State). Opposite the entrance was a high seat, sufficient for half a dozen persons, on which sat the Cacique himself, with his wife (she who had received the party the evening before) on his right hand. The Cacique was an old man of large stature. Round the house on each side were lower benches filled with more women and children. In the centre a constant fire was kept burning on a great heap of ashes and surrounded with little low benches. Sandford and Cary were placed on the higher seat on each side of the Cacique, and presented with skins, accompanied with ceremonies of welcome and friendship. Sandford thus describes the town, which was probably somewhere near to the site of the present village of Rockville on Wadmalaw Island: —

". . . The Towne is scituate on the side or rather in the skirts of a faire forrest in which att severall distances are divers fields of Maiz with many little houses straglingly amongst them for the habitations of the particular families, On the East side and part of the South

it hath a large prospect over meadows very spatious and delightfull. Before the Doore of their State-house is a spacious walke rowed with trees on both sides tall & full branched not much unlike to Elms which serves for the Exercise and recreation of the men who by Couple runn after a marble bowle troled out alternately by themselves with six foote staves in their hands which they tosse after the bowle in their race, and according to the laying of these staves wine or loose the heads they contend for: an exercise approveable enough in the winter but somewhat too violent (meethought) for that season and noon time of the day. From this walke is another lesse aside from the house for the children to Sport in."

After a few hours Sandford returned to his vessel with a great troop of Indians following him. The old Cacique himself came aboard his vessel and remained there that night without any of his people, some scores of whom, however, lay in booths on the beach. While he lay there Sandford learned that the river went through to another more westerly and was passable for his vessel. This increased his desire of passing that way, as he was persuaded from Hilton's map that the next river was the Jordan. So on the 27th of June, with the help of a flood tide, though the wind was contrary, he turned up the river, in which he found the channel six fathom deep and bold for a distance about ten miles from the harbor's mouth, where the river contracted between the marshes, but was seldom less than five fathom deep. The river being narrow and winding, no wind would serve long; so that for the most part he was forced to tow through, often against the wind, which proved very tedious, the more so as they could only proceed by day. So that it was Sunday morning, the 1st of July, before they came to the next westerly river and by it again to the sea.

From this description of his voyage it is very clear that Sandford passed by Jehossee Island through Dawhow River, from North to South Edisto. He was much puz-

zled on reaching the sea to find none of the marks which Hilton had indicated for the Jordan; and an evening storm driving him back into the river, he anchored and went ashore on the east point, and there he found Shadoo and several other Indians who had come by land across Edisto Island to see them come down the South Edisto. From these he learned that this was not the river in which Hilton had been. That Hilton had not known of it. The river in which Hilton had been was the next. When Sandford asked the name of this river, they answered him Edistows, and from this he says he learned that the Indians assigned names not to the rivers, but to the countries and people.

Amongst the Indians who had thus come to see him was one who had traded with the colony at the Cape Fear, and was known to them by the name of Cacique of the country of Kiawha. The Cacique was very urgent that Sandford should go to his country, assuring him of a broad and deep entrance and promising a large welcome and plentiful entertainment and trade. But Sandford told him he must first go to Port Royal and that on his return he would see his country. The Indian would not, however, leave Sandford, but to secure his return must needs accompany him to Port Royal as his pilot for that river. He sent his companion to give notice to the Chief Cacique of the place of Sandford's coming, that he might prepare food, and went himself on board of Sandford's vessel.

With the morning light Sandford weighed and stood out to sea with an easy gale at northeast and an ebb tide; but, unacquainted with the coast, with which Shadoo himself does not appear to have been better informed, he ran upon the shoals, and nearly lost his vessel. From this he branded the place with the name of Port Peril. It is

the same that was then known to the Spaniards as St. Helena Sound. After clearing the sands, he stood out to sea, and sailing around St. Helena Island, he came to anchor off Hilton Head. Broad River, which had been called the Jordan, he named Yeamans Harbor, in honor of the Lieutenant General and Governor. Whilst there, he espied with great rejoicing the shallop which had been parted from them since the 19th of June. St. Helena Island he had named Cary Island, in honor of his lieutenant, and Hilton Head Island, Woory Island. The shallop had come out of Yeamans Harbor. Sandford fired a gun and ran up his colors to let Brayne know that they saw him, but could not get to him for the mud flats. On the 3d of July, he luffed into the bay, and steering away between Hilton Head and the entrance of Port Royal, about midnight came to anchor within Port Royal River in seven fathoms of water.

The next morning Sandford moved opposite to the principal Indian town, and anchored before it. He had not ridden there long before the Cacique of that country himself appeared in a canoe, full of Indians, presenting him with skins, and bidding him welcome after their manner. Sandford went ashore with the Cacique to see the town, which stood in sight of the vessel. This was doubtless, from the description, Paris Island between Port Royal and Broad River. Sandford found the town, as to the forms of building, in every respect like that of Edisto, with a plain before the great roundhouse for their bowling recreation. At the end of this, there stood a fair wooden cross, which the Spaniards had left; but it was not observed that the Indians performed any adoration before it. All round the town, for a great space, were fields of maize of very large growth. The soil was nothing inferior to the best he had seen at Edisto: apparently more

loose and light. The trees in the woods were much larger, all the ground under them covered with a great variety of pasturage. He saw there, besides a great number of peaches, some fig-trees very large and fair, both fruit and plants, and divers grape vines which, though growing without culture in the very throng of weeds and bushes, were filled with bunches of grapes, to his great admiration. Upon the whole, they esteemed the country superior even to Edisto. It was all cut up into islands made by the intervenings of rivers and creeks, yet of firm good lands, excepting what was marsh; nor were the islands so small, many of them containing thousands of acres of rich habitable woodland, whose very banks were washed by river or creek, contributing not only to the fertility, but to the convenience of portage.

After a few hours' stay, to view the land about the town, he returned to his vessel, and there found Ensign Brayne with his shallop, who had come that morning through the sound from Yeamans Harbor, at the mouth of which they had seen him two days before. He reported that the morning Sandford had gone into Edisto he sailed along until evening, when he had entered Yeamans Harbor, and not finding Sandford there and "guessing" that he might be more southerly, he came through Port Royal and acquainted himself with Wommony, the son of the Cacique, who had been to Barbadoes, and with whom he easily prevailed to bear him company as guide from place to place in the several creeks and branches; that under his protection he had had an excellent opportunity of viewing all that part of the country, which, says Sandford, "he did so loudly applaud for land and rivers that his company's commendations of Edisto could scarce outnoise him." Satisfied with Brayne's report, Sandford determined to lose no more time there, but to proceed up the main river and

see the country, and upon his return to enter a creek on the west shore, which Brayne had not explored: which he was the more desirous to do because the Indians reported that it led to a great southern river which pierced far into the country and he supposed might be the *Freñchman's River May* or the *Spaniard's St. Matthias*. With the flood tide and a favorable wind he sailed up the river in the shallop nearly thirty miles as he estimated it, passing where it divides itself into two principal branches, the westernmost of which he went up and landed. From this statement it appears that it was Coosawhatchie that he ascended. He found the ground rising and crossed several fine falls and one brook of sweet water, which ran murmuring between two hills. He was still more pleased with the country. The land here, he says, was such as made them all conclude not only a possibility that Edisto might be, but a certainty that it was, exceeded by the country of Port Royal. Tired with his march through a rank growth of vines, bushes, and grass, which fettered his legs and proclaimed the richness of the soil, Sandford returned to the boat and fell down with the ebb towards his vessel, passing divers fair creeks in each side, which time did not allow him to enter. Upon returning to his vessel, he then crossed the river into the western creek he had mentioned, which, after three or four miles, opened into a great sound full of islands. This was, without doubt, Calibouge Sound. He describes it as emptying into the sea by two or three outlets. He spent two days exploring the islands around, finding them of as good firm land as any he had seen, and better timbered with live-oak, cedar, and bay trees. He concluded from what he saw that on this sound alone habitation for thousands of people might be found, with conveniences for their stock of all kinds. In fine, he could see nothing here to be wished

for but a good store of English inhabitants. He gave to the sound his own name, but it has not retained it.

Returning to his vessel, on the 7th of July Sandford took in some fresh water, proposing that night to leave Port Royal and return homeward, the discovery he had made exceeding all his own and he was confident would answer all other expectations. He purposed also to spend some days in viewing the country of Kiawha, the Indian of that nation remaining still with him for the purpose of guiding him thither.

A little before night the Cacique of Port Royal came aboard, bringing with him his sister's son. He inquired of Sandford when he would return, and pointing to the moon asked whether he would come within three times of her completing her orb. Sandford told him no; but in ten months. He seemed troubled at the length of time and begged him to come back in five. Sandford insisted upon the first number he had given. This being settled, the Cacique gave Sandford the young fellow to take with him, telling him he must clothe him and bring him back when he returned. Then he asked Sandford when he would sail, and when informed that he would do so that night, he importuned him to stay till the next day, that he might prepare him some venison.

Sandford was much pleased with this adventure and with the offer of the Cacique to let his nephew go with him, he leaving an Englishman in his room, for the mutual learning of their language. This he could do, for one of his company, Mr. Henry Woodward, a surgeon, had proposed to stay with the Indians for the purpose. Sandford determined, therefore, to wait until the next morning, to see if the Indians would remain constant to their purpose. Then taking Woodward and the young man with him, in the presence of all the Indians of the

place and of the fellow's relations, he asked if they approved of his going with him. They all with one voice consented. He then delivered Woodward to the Cacique in the sight and hearing of the whole town, telling them that when he returned he would require him at their hands. They received Woodward with expressions of great joy and thankfulness. The Cacique placed him by himself on the throne and then led him forth and showed him a large field of maize, which he told him should be his; then brought him the sister of the young man who was going with Sandford, to tend and dress his victuals and to take care of him so that her brother might be better used by the white men. Sandford, after staying a while, being wondrous civilly treated after the manner of the Indians, and giving Woodward formal possession of the whole country to hold for the Lords Proprietors, returned aboard and immediately weighed anchor and set sail.

The morning of the 10th of July Sandford found himself before the river that led into the country of Kiawha in the present Charleston harbor, but the Indian of the place, who had remained with him all the while solely for the purpose of piloting him into the harbor, mistook the entrance, and Sandford under his direction had stood away some two leagues before the pilot saw his mistake. It was now too late, for the wind was so that he could not fetch the river again and even if the weather had been fair could not enter it before night: but the appearance of the heavens forbade his lying that night upon the coast. The river he described as lying between Harry Haven (Edisto) and Cape St. Romana, and found seven or eight fathoms of water very near the shore and not the least appearance of shoals or dangers in any part of it. It showed a very fair large opening, clear of any flats barring the

entrance — only before the eastern point he saw a beach, but which did not extend far out. He persuaded himself that it led to an excellent country, both from the commendation the Indian gave it and from what he had seen at Edisto. Wherefore, in hopes that it might prove worthy the dignity, he called the river Ashley, from the Right Hon. Lord Ashley, and to take away, he says, every vestige of foreign title, he blotted out the name of St. Romano and called the cape, Cape Carteret, in honor of Sir George Carteret, a Proprietor of Carolina.

On the 12th of July, about noon, Sandford and his company entered Charles River, the Cape Fear, and landed, to the great rejoicing of their friends, who received not, he says, their persons more gratefully than the favorable report they brought with them of the country they had seen and examined, in which they found ample room for many thousands secured from any danger of massacre with such accommodation, to boot, as scarce any place can parallel, in a clime perfectly temperate, and where the soil cannot fail to yield so great a variety of production as will give an absolute self-sustenance to the place without foreign dependence and also furnish a trade to the kingdom of England as great as that she has with all her neighbors, "and," he concluded, "under our Sovereign Lord the King within his owne Dominions and the Lands possessed by his Naturall English subjects universall Monarch of the Trafique and comodity of the whole world."

Chalmers in his *Political Annals*[1] asserts that Sir John Yeamans remained with the Barbadian colony on the Cape Fear and ruled them with the affection of a father, rather than with the authority of a Governor, and thus insured a seven years' peace to the attempted colony, which was only disturbed by the selfishness of individuals; and

[1] Carroll's *Coll.*, 289.

in this story he has been followed by other historians thus misled by him.[1] But Saunders, in his prefatory note to the first volume of the colonial records of North Carolina, points out the inaccuracy of this statement. Sir John, as we have seen, arrived there with his small colony in October, 1665, but abandoned them and returned immediately to Barbadoes; where he was a member of the King's Council, taking an active part in the affairs of the island during the years of his supposed benign rule at Cape Fear.

The Barbadian settlements on the Cape Fear were, in fact, broken up in the summer or early fall of 1667; the colonists not coming to South Carolina, as stated by Chalmers, but going, some up to the Albemarle settlement and some to Nansemond County in part, and in part to Boston.[2]

[1] *Hist. Sketches of No. Ca.* (Rivers), 71.

[2] *Colonial Records of No. Ca.*, vol. I, 148–151, 157–159, 177–208.

CHAPTER IV

In the early part of 1669 Lord Ashley, not yet the Earl of Shaftesbury, assumed a leading part among the Proprietors, and their previous indefinite policy in regard to the colonies was abandoned under his influence for a determined course. His first step was to prepare and formulate a plan of government for the great province they were to found. For this purpose he engaged the assistance of his friend, the celebrated philosopher John Locke, who was then living with him at Exeter House, his Lordship's London residence as his private secretary. The result of their collaboration was the production of the famous "Fundamental Constitutions" drawn by Locke in March of that year, and which, with some modifications, were solemnly adopted by the Proprietors in the July following.

This most extraordinary scheme of forming an aristocratic government in a colony of adventurers, in the wild woods, among savages and wild beasts began with this formal recital :—

"Our Soveregn Lord the King having out of his royal grace and bounty granted unto us the Province of Carolina with all the royalties, properties, jurisdictions and priviledges of a County Palatine, as large and ample as the County Palatine of Durham with other great Priviledges for the better settlement of the government of the said place, and establishing the interest of the Lords Proprietors with equality, and without confusion: and that the government of the Province may be made most agreeable to the Monarchy under which we live and of

which this Province is a part, *and that we may avoid erecting a numerous democracy;* we the Lords Proprietors of the Province aforesaid have agreed to the following form of governments to be perpetually established amongst us, and unto which we do oblige ourselves, our heirs and successors in the most binding ways that can be devised."[1]

The charter constituted the province a County Palatine. The first provision necessary therefore was to determine who should be the Palatine. The first clause of the constitution accordingly provided that the eldest of the Lords Proprietors should be the Palatine; and upon his decease the eldest of the seven surviving Proprietors should always succeed him. Then seven other chief officers were provided, viz. an Admiral, Chamberlain, Chancellor, Constable, Chief Justice, High Steward, and Treasurer, the places of which should be enjoyed by none, but the Lords Proprietors to be assigned at first by lot, and upon the vacancy of any one of these seven great offices by death or otherwise the oldest Proprietor should have his choice of such place.

Seizing upon the clause in the charter which we have traced from that of Sir Robert Heath, which empowered the Proprietors to confer marks of favor and titles of honor upon such of the inhabitants of the said province as they should think fit, and as this instrument expressed it, in order that the government might be made most agreeable to monarchy and avoid erecting a numerous democracy, the whole province was to be divided into counties; each county into eight seigniories, eight baronies, and four precincts; each precinct into six colonies. These territorial divisions were made for the support of the proposed aristocracy, and for this purpose it was provided,

"4 Each signory, barony, and colony shall consist of twelve thousand acres; the eight signories being the share of the eight proprietors, and the eight baronies of the nobility; both which shares being each

[1] *Statutes of So. Ca.*, vol. I, 43; *Colonial Records of No. Ca.*, vol. I, 157.

of them one fifth of the whole are to be perpetually annexed, the one to the proprietors, and the other to the hereditary nobility; leaving the colonies, being three fifths among the people; so that in setting out and planting the lands, the balance of the government may be preserved."

As each seigniory, barony, and colony contained 12,000 acres, each county was made to contain 480,000 acres, or 750 square miles. Of this land the eight Proprietors would have 96,000 acres; and as there were to be as many Landgraves as counties, and twice as many Caciques, each Landgrave's share was appointed to be four baronies, or 48,000 acres, and each Cacique's share two baronies, or 24,000 acres. There were left three-fifths of each county, or 288,000 acres, for the people.[1]

Until the year 1701 the Proprietors were to be allowed to dispose each of his proprietorship, and of his seigniories and powers; but after that time no Proprietor was to be allowed to alienate his proprietorship with its seigniories, baronies, and privileges, but for a term of three lives or twenty-one years; and that only to the extent of two-thirds, the remaining third to be always in demesne, *i.e.* in the Proprietor's own actual possession, and not under lease to tenants. The proprietorship, with its lands and privileges, was to descend to the heirs male, and for want of such heirs, to a Landgrave or Cacique of Carolina, who was descended from the next heirs female of the Proprietor; if none, to the next heir general; and for want of any such heirs the remaining seven Proprietors were authorized to choose a Landgrave to succeed to the deceased Proprietor; and it was required that whoever succeeded a Proprietor, either by inheritance or choice, should take the name and arms of the Proprietor whom he succeeded.

[1] *Hist. Sketches of So. Ca.* (Rivers), 83.

which should thenceforth be the name and arms of his family and their posterity.

Besides the Proprietors, the nobility was to consist of Landgraves and Caciques. These terms were chosen because by the provision of the charter it was required that the title was to be unlike those of England. The title Landgrave was borrowed from the old German courts; and that of "Casique" or "Cacique" from the style of the Indian chiefs of America. There were to be as many Landgraves as there were counties, and twice as many Caciques, and no more. These were to constitute the hereditary nobility of the province, and by right of their dignity to be members of Parliament. Each Landgrave was to have four baronies, and each Cacique two baronies hereditarily and unalterably annexed to and settled upon the dignity. The same rules of alienation and descent as to the lands and dignities of the Landgraves and Caciques were laid down as were prescribed for the proprietorship.

Besides the seigniory of the Proprietor, the barony of the nobility, and the colony or precinct of the commons, another subdivision was allowed, — that of the manor, which was to consist of not less than 3000 acres, and not above 12,000 in one entire piece, and in one colony: the mere possession by one, however, of such a tract did not constitute it a manor unless it was so ordered by a Palatine Court. A lord of a manor within his own manor was to have all the powers, jurisdictions, and privileges which pertained to a Landgrave or Cacique in his barony.

It was provided that "In every signory, barony and manor all the leet-men shall be under the jurisdiction of the respective lords of the said signory, barony or manor without appeal from him." This provision was a revival and adaptation of the ancient system of the hundred, under which in England a court-leet was held once a year within

each particular hundred, lordship, or manor, and to which court all the freeholders within the precinct above the age of twelve and under sixty, excepting peers, clerks (*i.e.* clergy), women, and aliens, whether masters or servants, owed their personal suit and attendance, and were to be sworn as to their fealty and allegiance. The court-leet in England was charged with the preservation of the peace, and had jurisdiction over small offenders against the public good.[1]

But while new and oppressive provisions were imposed by these constitutions, such as that no leet-man or leet-woman should have liberty to go off from the land of his or her lord, and live anywhere else without leave obtained from the said lord under hand and seal; and while the existence of the court-leet was at least impliedly recognized in the provisions that the lord of the seigniory, barony, or manor should have jurisdiction without appeal over his leet-men, and prescribing that no one should be capable of having a court-leet but a Proprietor, Landgrave, Cacique, or lord of manor, no provision was made for the holding of such courts, but, on the contrary, their organization and jurisdiction, as they prevailed in England, were given to County and Precinct courts.

Who were to be leet-men was not declared save in the clause "whosoever shall voluntarily enter himself a leet-man in the registry of the County Court shall be a leet-man." The only inducement held out for one thus voluntarily to put himself within the absolute control of his lord was that the lord should, "upon the marriage of a leet-man or leet-woman, give them ten acres of land for their lives, they paying to him therefor not more than one-eighth part of all the yearly produce and growth of the said ten acres." Could the framers of this instrument,

[1] Blackstone's *Com.*, vol. IV, 273.

philosophers or statesmen, suppose that for the rental of those few acres upon marriage, freemen would have thus enslaved themselves?

Eight Supreme Courts were provided; the jurisdiction of these courts was legislative as well as judicial. The first was the Palatine Court, consisting of the Palatine and the other seven Proprietors. This court with its vice-regal power corresponded to the King in the monarchy of England, but with even greater relative power in its limited sphere. It was the source of all law and the final arbiter of justice. The other seven courts each consisted of one of the other seven great officers and six counsellors.

To the Chancellor's Court belonged all matters of State and treaties with the neighboring Indians, all invasions of the law of liberty of conscience, and all invasions of the public peace upon pretence of religion, as also the license and control of printing.

The Chief Justice's Court had jurisdiction of all appeals both civil and criminal, except such as fell under the jurisdiction and cognizance of any other of the Proprietors' courts.

The Constable's Court had the order and determination of all military affairs by land, and of all land forces, arms, ammunition, and whatever belonged unto war.

The Admiral's Court had the powers of a court of admiralty, with power to appoint judges in port towns to try cases belonging to the law-merchants as should be most convenient for trade.

The Treasurer's Court was charged with the care of all matters that concern the public revenue and treasury.

The High Steward's Court had the care of all foreign and domestic trade, manufactures, public buildings, workhouses, highways, passages by water above the flood tide, drains, sewers, and banks against inundations, bridges,

posts, carriers, fairs, markets, corruption or infection of the air or water, and of all things in order to the public commerce and health, the surveying of lands, and the appointing places for towns.

The Chamberlain's Court had the care of all ceremonies, precedency, heraldry, reception of public messengers, pedigrees, the registration of births, burials, and marriages, legitimation, and all cases concerning matrimony; and had power also to regulate all fashions, habits, badges, games, and sports.

There was to be a Grand Council consisting of the Palatine, seven Proprietors, and the forty-two counsellors of the several Proprietors' courts, which should have power to determine any controversy that might arise between any of the Proprietors' courts about their respective jurisdictions. This body was also to prepare all matters to be proposed in Parliament, and no matter whatsoever was allowed to be introduced in Parliament which had not first been considered by it; after which, having been read three several days in Parliament, it was by majority of votes passed or rejected.[1] The Grand Council was to meet the first Tuesday in every month. The quorum was but thirteen, whereof a Proprietor or his deputy should be always one. The Palatine or any of the Lords Proprietors were empowered under their hands and seals to be registered in the Grand Council, to make a deputy who should have the same power to all intents and pur-

[1] The precedent for this provision was probably found in that of Poyning's law in regard to Ireland, of 1494 (the great bone of contention in the later days of Flood and Grattan), under which no matter could be moved or considered in any Parliament of Ireland until it had been considered, approved, and certified under the great seal of England. By which means nothing was left to an Irish parliament but a power of passing or rejecting such measures as were proposed to them. Blackstone's *Com.*, vol. I, Intro., § 4; Green's *Hist. of the English People*, vol. II, 73.

poses as he who deputed him except the confirming acts of Parliament and nominating and choosing Landgraves and Caciques. The eldest of the Lords Proprietors who should be personally in Carolina should, of course, be the Palatine deputy.

County and Precinct courts were provided, as before intimated, for the trial of small causes, civil and criminal. For treason, murder, and all other offences punishable by death, a commission twice a year at least was to be granted to one or more members of the Grand Council who should come as itinerant judges to the several counties, and with the sheriff and four justices hold assizes to judge all such cases. From the Court of Assizes an appeal was allowed to the respective Proprietors' court, but only upon the payment of £50 sterling to the Lords Proprietors' use. These courts of assize were to be held quarterly, not exceeding twenty-one days at any one time.

None but freeholders could be jurymen. Every jury was to consist of twelve men, but it was not necessary that all should agree; the verdict was to be rendered according to the consent of the majority. There was then a curious provision taken, doubtless by Locke, from the Cincian law of Rome, which declared it to be a base and vile thing to plead for money or reward, and forbade that any, except a near kinsman, should be permitted to plead another's cause until he had taken an oath in open court that he had not directly or indirectly bargained with the party whose cause he was going to plead, for money or other reward.

The object of this provision, it has been observed, is manifest. It was to make of pleading before the courts of justice a patrician privilege, and thus secure to the governing class the immense influence which attaches to the administration of the law. And the result would

have been to have made of the profession a class within a class, invested even with higher power and more extensive influence than the body to which it belonged.[1]

There was to be a biennial Parliament, to consist of the Proprietors, or their deputies, the Landgraves and Caciques, and one freeholder out of every precinct, to be chosen by the freeholders. Like the ancient Scotch Parliament, all were to sit together in one room and each member to have one vote. It is evident that the representation of the commonalty would have but little influence in such a body, by the very constitution of which they were in a hopeless minority; but the provision that no business should be allowed to be proposed until it was debated in the Grand Council, whose duty it was, like the Lords of Articles in the Scotch constitution, to prepare bills for Parliament, reduced them still more to the position of mere witnesses to the action of others whose proceedings they could not control.

The freeholders of the respective precincts were to meet to choose Parliament men every two years at the same place unless the steward of the precinct, upon proper notice, appointed some other place. The manner of these elections was not prescribed; but without doubt they were intended to be by poll, as it was especially provided that all elections in the Parliament itself, in the several chambers of the Parliament, and in the Grand Council should be by balloting. As far as is known, however, no election ever took place in South Carolina except by ballot.

To avoid a multiplicity of laws which it was said by degrees always change the right foundations of the original government, all acts of Parliament, it was provided, should, at the end of a hundred years after their

[1] Oration of William Henry Trescot, before Historical Society, *Coll. Hist. of So. Ca.*, vol. III. 28.

enactment, "cease and determine," *i.e.* come to an end of themselves wirhout repeal. And since, continued these wise lawmakers, multiplicity of comments, as well as of laws, have great inconveniences, and serve only to obscure and perplex, all manner of comments and expositions on any part of these Fundamental Constitutions or upon any part of the common or statute laws of Carolina are absolutely prohibited.

A registry was provided in every seigniory, barony, and colony, wherein were to be recorded all births, marriages, and deaths. The time of every one's age that is born in Carolina, it was declared, should be reckoned from *the day that his birth is entered in the registry, and not before.* No marriage was lawful until both parties owned it before the Register. No administration upon the goods of a deceased person was allowed until his death was registered. Neglect to register a birth or death subjected the person in whose house or ground the birth or death took place to a fine of one shilling per week. The births, marriages, and deaths of the Lords Proprietors, Landgraves, and Caciques were to be registered in the Chamberlain's Court.

All incorporated towns were to be governed by a mayor, twelve aldermen, and twenty-four of the common council; the common council to be chosen by the householders of the town, the aldermen to be chosen out of the common council, and the mayor out of the aldermen by the Palatine's Court.

The provisions in regard to religion were also remarkable. It was especially provided that "no man shall be permitted to be a freeman of Carolina, or to have any estate or habitation within that doth not acknowledge a *God*, and that *God* is publicly and solemnly to be worshiped." But as it was expected that those who would

plant themselves in the new colony would unavoidably be of different opinions concerning religious matters, the next article went on to provide that "any seven or more persons agreeing in any religion should constitute a profession to which they should give some name." The terms of admittance and communion with any such church or profession were to be written in a book, and subscribed by all the members, and the book be kept by the public Register. These terms were to comprise three, without which no agreement or assembly of men should be accounted a church or profession within the rules.

These were : —

"1st. That there is a God.

2d. That God is publickly to be worshiped.

3d. That it is lawful and the duty of every man being thereunto called to bear witness to the truth, and that every church or profession shall in these terms of communion set down the eternal way whereby they witness a truth as in the presence of God whether it be by laying hands on or kissing the bible, as in the church of England or by holding up the hand, or any other sensible way."

In the copy of these constitutions to be found in the Statutes of South Carolina there appears the following : —

"96' (As the country comes to be sufficiently planted, and distributed into fit divisions, it shall belong to the Parliament to take care for the building of churches and the public maintenance of divines, to be employed in the exercise of religion, according to the Church of England: which being the only true and orthodox, and the national religion of all the King's dominions is so also of Carolina, and therefore it alone shall be allowed to receive public maintenance by grant of Parliament)."

In a note to these constitutions appended to Locke's works, it is said that this article was not drawn up by him, but inserted by some of the chief of the Proprietors against his judgment, as Locke himself informed his friends to whom he presented a copy of them.[1] But

[1] Locke's works (4th ed., MDCCLIX), vol. III, 376.

Anderson, in his history of the colonial church, observes that it is difficult to understand the grounds on which such an objection, if made, could have been rested. For if it be true, it was nothing else than objecting to a corollary inevitably deduced from the terms of the only instrument which gave to the Proprietors or to any one interested in the welfare of Carolina the right to legislate therefor. He points out also that the statement does not altogether agree with another made in a history of Locke's life prefixed to his works, *i.e.* that it was inserted not by the influence of any of the Proprietors, but because some of the clergy, jealous of the other liberal provisions in regard to religion contained in the other clauses of the constitution, expressed their disapprobation and procured the insertion of this article. The point of this argument is that when Locke undertook to draw this body of laws, he necessarily consented and undertook to draw them so as to conform to the requirements of the Royal charter, — the authority upon which they must ultimately rest, and by which they must be controlled, — and that as that charter of itself established the church, the constitution to be prepared by him must necessarily have provided for carrying out that purpose.[1]

A manuscript copy of the constitution, still to be found in the Charleston Library, which tradition asserts to be in the handwriting of the celebrated draftsman, Locke himself, bearing date the 21st of July, 1669, does not contain this clause. The historian Rivers does not, however, believe this manuscript to be Locke's, but considers it a transcript sent out with Sayle.[2] However interesting

[1] Anderson's *History of the Colonial Church*, vol. I, 321–323.

[2] In this Mr. Rivers is corroborated by Mr. W. Noel Sainsbury, assistant keeper of the public records in the State paper office, London, the best authority upon the subject, who writes, December, 1875: "After

this question may be historically, involving as it does the existence of the very paper upon which the province of Carolina was founded, and its preservation upon the spot on which it was first read and attempted to be put in force, now two hundred and twenty-seven years ago, the presence or absence of this clause in the constitution was not a matter affecting the government of the colony, inasmuch as its purpose was already carried out in the Royal charter itself by which the Church of England was established as the church of the province. It is curious to observe, however, as illustrating the early disregard by the Proprietors of the terms of their charter which became habitual, that the reason they allege for the establishment of the church is not that it is so already prescribed in that instrument as one of the conditions of their title, but because it is the only true and orthodox and national religion, and is, therefore, alone to receive public maintenance. The fact is that the liberality of the constitutions themselves, for which Locke has been praised, was enjoined by the Royal charter which prohibited the interference with or punishment of any for difference in opinion or practice in matters of religious concurment which did not disturb the civil peace of the province.

Passing from these provisions to secure liberty of conscience, and others to protect the native Indian and to give him an opportunity to learn for himself the reasonableness of the Christian religion and the peaceableness and unoffensiveness of its professors by their good usage and persuasion, — precepts which all European colonists habitually disregarded and atrociously violated, — these

comparing very carefully the Charleston fac-simile herewith returned, with Shaftesbury MS. and with many other papers in Locke's handwriting, I am of opinion that it is *not* in Locke's handwriting, but that it is a cotemporary copy." MS. letter, Charleston Library.

constitutions drawn by him who, in a subsequent treatise on government, approves the doctrine that slavery was but a state of warfare continued,[1] proceed to enjoin that "every freeman of Carolina shall have absolute power and authority over his negro slave of what opinion or religion soever." The full significance of this provision we shall have occasion hereafter to disclose when we come to treat of the institution of African slavery in the colony.[2] For the present it is enough to observe that the existence of the institution as a rightful and legal one was thus recognized, and provision made in advance for its introduction into the province.

In order firmly to establish and maintain these Fundamental Constitutions, it was provided that a true copy of them should be kept in a great book, by the register of every precinct, and that no person of what degree or condition soever above seventeen years old should have any estate or possession in Carolina, or protection or benefit of the law, who did not subscribe a pledge with his utmost power to defend and maintain them.

It is remarkable that in preparing and adopting these Fundamental Constitutions, the Proprietors were oblivious of the essential fact that under the Royal charter, by which alone they could prescribe constitutions and laws for the province which had been granted them, it had been expressly prescribed that such laws could only be enacted "by and with the advice assent and approbation of the Freemen of the said Province or of their delegates or deputies." Was it likely that such freemen would ever consent to the establishment of a form of government

[1] Locke's works, vol. II, 173.

[2] See "Slavery in the Province of South Carolina, 1670–1770," by Edward McCrady, *Annual Report of the American Historical Association, 1896*, 652–654.

the chief scope and object of which was to transfer the rights which had been secured them by the Royal charter to an aristocracy over whom they could have no control? Such a doubt seems never to have occurred to the Proprietors. Still more strange does this appear when we consider that these Proprietors were seeking to induce emigrants to settle in their new province rather than in the older colonies, which were guaranteeing to all such liberty and equality. We must remember, however, that it was about this time that Sir William Berkeley, one of their body, then in America, as Governor of Virginia, on the eve of Bacon's Rebellion, concluded a report upon that colony with the famous declaration: "I thank God that there are no free schools, no printing, and I hope we shall not have these hundred years; for learning has brought disobedience into the world, and printing has divulged them and libels against the best governments."[1]

These constitutions doubtless expressed the reactionary sentiment of the Restoration. It will be made to appear in the course of this work that South Carolina was foremost in her efforts to establish free schools and to provide for the education of her children, the poor as well as the rich, yet in this the first body of laws proposed for her government by absentee Lords, though devised and framed by a student and a philosopher, there was no mention, even, of a school. Public schools were not in accordance with the spirit of the times in England or elsewhere, and it is evident from his essay on education written twenty-four years after that Locke was even then opposed to the gathering together of youths in schools, holding that this manner of education was more productive of forwardness, mischief, and vice than of learning and the graces.[2]

[1] *Virginia*, American Commonwealth Series (Cooke), 226.

[2] Locke's works, vol. III, *Thoughts concerning Education*, 70.

The whole scheme of the Fundamental Constitutions was visionary, crude, incomplete, and impracticable. For a province yet to be settled, in which society must build itself up from its very foundation, at first at least, beginning in its simplest and rudest forms, an elaborate and intricate system of government was provided, among the regulations for which it was deemed opportune to establish a court of heraldry with power to regulate fashions, games, and sports. It is difficult to use the language of moderation in discussing the provision prohibiting comments or expositions of the law, upon the ground that such would tend to obscure and perplex its text. No less preposterous was that declaring that one's age should be reckoned only from the day on which his birth was registered, and not from that on which he was born. It is hard to realize that the author of the *Two Treatises on Government* of 1689 could have been the designer and framer of the Fundamental Constitutions of Carolina in 1669. But there was twenty years' difference between the times in which they were composed, and though in that time the philosopher had not risen to the conception of a school system for the new country, he had experienced the frowns of restored royalty and had followed his patron to Holland; for thither the Earl of Shaftesbury had only escaped with his life from the tower and there, like his co-proprietor Clarendon, with whom he had quarrelled and against whom he had intrigued, Shaftesbury was to die in exile.

In the dedication of a collection of several of Locke's pieces published under the direction of Anthony Collins, the writer discussing the relative advantages which are possessed by a philosopher over a courtier or politician in the preparation of such a work, it is said that though some may be of opinion that in the matters of state the politician ought to have the preference, this will not in the least

diminish the value of the Fundamental Constitutions, since not only a philosopher, but a politician of the first rank, was concerned in them.[1] It is well that Shaftesbury's reputation, we will not say as a politician but as a statesman, and Locke's as a philosopher, rest upon other works than this extraordinary product of their joint labors.

Regarding the Fundamental Constitutions as fully established, — though the consent of the freemen had not been obtained, — the Proprietors then resident in England proceeded to establish a government under them. On the 21st of October, 1669, they met at the Cockpitt to organize the Palatine's Court, whereupon as the Earl of Clarendon was in exile, deserted by his Royal master, Monk, the Duke of Albemarle, was elected the first Palatine; the Earl of Craven, the first High Constable; the Lord Berkeley, the first Chancellor; the Lord Ashley, the first Chief Justice; Sir George Carteret, the first Admiral. Sir John Colleton had died in 1666, leaving Sir Peter, his son, his heir, so the latter was chosen the first High Steward.[2] Sir William Berkeley, as has been mentioned, was in America as Governor of Virginia. In this in the outset there was constituted an anomaly. The scheme of the constitution was that of a government of different parts, but of one system — a system of government for the province, and presumably to be carried on in the province. But the Palatine's Court was thus in the initiation of the government established in London.

This body of laws never received the necessary assent and approbation of the freemen of the province, and so was never constitutionally of force; but though not having the formal sanction of the charter, it is undoubtedly true that its provisions had a marked effect upon the

[1] Locke's works, vol. III, 652.

[2] *Colonial Records of No. Ca.*, vol. I, 179.

institutions of the colony and impressed upon the people, and upon their customs and habits, much of the tone and temper of its spirit. Seigniories, baronies, colonies, and manors were actually laid out, and Landgraves and Caciques appointed, some of whom took possession of their baronies. Some tracts of land in the lower part of South Carolina still, in part at least, bear the names then given them; such, for instance, as the Colleton Barony, the Wadboo Barony, the Broughton Barony, etc. The power to confer titles of honor under the charter, it will be observed, restricted the bestowal of them upon "*such of the inhabitants of the said Province*" as the Proprietors should think merited the honor; but the Proprietors disregarded the restriction, and bestowed them upon persons who had never been in the colony. Thus, for instance, John Locke himself was the first Landgrave made. There is no record that Landgraves James Carteret, Thomas Amy, John Price, Abel Kettleby, or Edward Jauks (or Jenks) or Thomas Lowndes were ever in Carolina. By the constitutions the eldest of the Lords Proprietors, who should be personally present in Carolina, was thereby in fact the deputy of the Palatine, and if no Proprietor nor heir apparent of a Proprietor should be here, then the Palatine should choose for deputy any one of the Landgraves of the Grand Council who should be in the colony. It was probably to meet the provision of the constitutions that all or nearly all the Governors under the Proprietors were made Landgraves, and thus became deputies of the Palatine. Besides the Governors, but three or four Carolinians, *i.e.* inhabitants of the province, were deemed worthy of being appointed Landgraves.[1] By the constitution Landgraves and Caciques were not

[1] See Appendix for Devolutions of Proprietary shares and list of Palatines, Landgraves, Caciques, and also of Governors.

allowed after the year 1701 to alienate or assign their dignities, and yet Thomas Lowndes in 1728 procured a patent as assignee of John Price, neither having ever been in the province.[1]

The Proprietors were sensible, however, that such an elaborate scheme of government could not be put into immediate operation, and though for thirty years they persisted in their efforts to impose its provisions upon the province, they found it necessary in sending out their first colony to provide some temporary laws for the government of the adventurers who composed it. These rules were embodied in the commission and instruction of the Governor.

[1] *Coll. Hist. of So. Ca.*, vol. I, 174.

CHAPTER V

1669–70

THE failure of the colony at Cape Fear and the glowing account which Sandford had given of the country at Port Royal turned the attention of the Proprietors to the latter point, and induced them to devote their efforts to the establishment of a settlement there. In 1667 they fitted out a ship, gave the command of it to Captain William Sayle, and sent him out to bring them some further account of the coast. In his passage Captain Sayle was driven by a storm among the Bahama Islands, which accident he improved to the purpose of acquiring some knowledge of them, particularly of the Island of Providence, which he judged might be of service to the intended settlement of Carolina; for in case of an invasion from the Spaniards, this island fortified might be made to serve as a check to the progress of their arms or a place of retreat to unfortunate colonists. Leaving Providence, he sailed along the coast of Carolina, where he observed several large navigable rivers emptying themselves into the ocean, and a flat country covered with woods. He attempted to go ashore in his boat, but observing some Indians on the banks of the river he was deterred; and having explored the coast and mouths of the rivers, he took his departure and returned to England. Why he was so easily frightened by the Indians does not more particularly appear; but though he did not land,

he made a most favorable report to his employers, praised their possessions, and encouraged them to engage with vigor in the execution of their project. His report respecting the Bahama Islands induced the Proprietors to apply to the King for a grant of them also, and his Majesty added those between the twenty-second and twenty-seventh degrees to their former dominion.[1]

No longer depending upon the attempts at colonization from Barbadoes alone, arrangements were now made to send out an expedition to Port Royal which was to be composed of emigrants from England, reinforced by others from Ireland, Barbadoes, and Bermuda. By articles of agreement signed by all the Proprietors, each undertook to contribute £500, equal at that time probably to about £2000 or £2500 of present money,[2] to be laid out in ship-

[1] Hewatt's *Hist. of So. Ca.*, 47, 48.

[2] It must be borne in mind that the purchasing power of money, *i.e.* its value, while constantly fluctuating, was formerly much greater than at present. Adam Smith states that during the sixteenth and the first half of the seventeenth century it fell to about a fourth of what it had been previously, so that the heirs of one who had bought a perpetual annuity in 1490 of £100 a year were not receiving in reality, in 1650, more than £25 in comparison with that of 1490. *Wealth of Nations*, vol. IV, 213. Froude estimated for the same time, *i.e.* the time of Henry VIII, that for a penny a laborer could buy as much beef, beer, and wine as the laborer of the nineteenth century could for a shilling; that is, that the purchasing power of a penny was in the time of Henry VIII twelve times of the value it maintained when he wrote. *History of England*, vol. I, 34. These estimates do not exactly coincide, but they agree in the fact of the great depreciation of money value. Mr. Alexander Brown, in his *Genesis of the United States*, 810, estimates the subscriptions to the Virginia Company, 1610–20, at from four to five times the present value of the pound sterling, making the pound at that time equal to $20 to $25 of our present currency. This estimate has been adopted by Mr. Bruce in his *Economical History of Virginia*, vol. I, 25, vol. II, 172, 247, 249, etc., as a rough measure of the value of the pound in the seventeenth century. This may be accepted as approximately correct, but it must be remembered that the value of money, while generally depreciating, was subject

ping, arms, ammunition, tools, and provisions for the settlement of Port Royal, and a further sum of £200 per annum for the next four years. It was further agreed that any Proprietor neglecting or refusing to pay in any of the said sums should relinquish and convey his share to the rest of the Proprietors. A fleet of three ships was purchased at a cost of £3200 16*s.* 6*d.*; viz. the *Carolina*, Captain Henry Braine master,[1]—the same who had accompanied Sandford in his voyage to Port Royal, the *Port Royal*, John Russell master, and the *Albemarle*, Edward Baxter master. These vessels were laden with stores, merchandise, munitions of war, and all equipments necessary for planting a colony of two hundred people; a number which was believed would be strong enough for self-protection and to make a permanent settlement.[2]

On the 27th of July, 1669, Mr. Joseph West was appointed Governor and Commander-in-chief of the fleet and of the persons embarked in it bound for Carolina until its arrival in Barbadoes, or until another Governor was appointed. Mr. West's instructions accompanying his commission as Governor directed him with all possible speed to sail for Kinsale in Ireland, where he was to procure twenty or twenty-five servants, and then to sail directly to Barbadoes. God sending the fleet safe to Barbadoes, Mr. West was there to furnish himself with

to continuous fluctuation as it is to-day. In this instance we think the value of the money agreed to be contributed by the Proprietors may with some certainty be accepted as stated in the text as from four to five of the present value of the pound.

[1] *Calendar State Papers, Colonial* (Sainsbury, London, 1859), Preface and 54, 55, 99.

In Sandford's account of his voyage the name is spelled *Brayne*, as in the third chapter of this work.

[2] *Shaftesbury Papers; Year Book City of Charleston* (Courtenay), 1883, 365; Oldmixon, *Carolina.*

cotton seed, indigo seed, ginger roots, which roots he was to carry planted in a tub of earth so that they might not die before their arrival at Port Royal; also, in another tub, he was to carry canes, planted for trial, also the several sorts of vines of that island, and olives, all of which would be procured by Mr. Thomas Colleton, to whom the fleet was consigned. The most minute instructions were also given for his conduct at Port Royal, — the clearing of the lands, building of houses, planting the seeds, and the care of cattle which were to be procured from Virginia. He was to take from Barbadoes half a dozen young sows and a boar, which were to be furnished by Mr. Thomas Colleton if his own funds were not sufficient. Mr. John Rivers, who was to go out as the agent of Lord Ashley, was to take charge of the storehouse containing the materials of war, and to give them out only as directed by the Governor and Council. Captain Henry Braine was placed under the command of West until the arrival of the fleet at Barbadoes, when he was to obey the Governor to be appointed, and to return from Port Royal to Barbadoes, or to go to Virginia, as he should be directed by Sir John Yeamans, Mr. Thomas Colleton, and Major Kingsland. If he was sent to Virginia, he was then to take in passengers and other freight for Port Royal.[1]

Sir John Yeamans, though actively engaged in the political affairs of Barbadoes, still bore the commission of Governor and Lieutenant Governor of Carolina, but his ill success with his colony at Cape Fear had cooled the fervor of the Proprietors, and, though they recommended the expedition to his care and assistance, did not directly reappoint him its Governor, but sent a blank commission to be filled by him according to circumstances.[2] With the

[1] *Hist. Sketches of So. Ca.* (Rivers), 92, and Appendix, 342–345.

[2] *Year Book City of Charleston*, 1883 (Courtenay), 368.

commission in blank were also sent deputations from the Proprietors respectively, also in blank, to be filled as was the Governor's. The deputies to be thus appointed were to form the Governor's Council, and for their guidance instructions were annexed to the commissions and deputations.

These instructions[1] began with the observation that as the number of people to be set down at Port Royal would be so small, and as there were as yet no Landgraves and Caciques, it would not be possible to put the grand model of government at once into practice. Notwithstanding this, however, in order that they might come as nigh as possible thereto the Governor and Council were instructed :

1. As soon as they arrived at Port Royal they were to summon all the freemen in the colony and require them to elect five persons, who, being joined to the five deputed by the respective Proprietors, were to be the Council, with whose advice and consent, or of at least six of them, all being summoned, they were to govern according to the instructions, and to put in practice what they could of their Fundamental Constitutions.

2. They were required to cause all the persons so chosen to swear allegiance to the King, and to subscribe fidelity and submission to the Proprietors and to the form of government by them established.

3. The Governor and Council were to choose some fitting place wherein to build a fort; under the protection of which was to be the first town. The streets of the town were to be so arranged as to be commanded by the guns on the fort.

4. The stores of all kinds were to be kept within the fort.

5. If the first town was placed upon an island, the

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 347.

whole island was to be divided into colonies and reserved for the people, and no seigniory or barony was to be taken up in it. But if the first town was planted on the main, then the next six adjoining squares of 12,000 acres were to be all colonies, so that the people might first be planted together in convenient numbers.

6. In order to avoid offending the Indians, no one was to be allowed to take up land within two miles and a half of any Indian town.

7. The Governor and Council were to establish such courts as they should think fit for the administration of justice till the grand model of government could be put into operation.

8. They were to summon the freeholders of the colony and to require them to elect twenty persons, who, together with the deputies, were for the present to be the Parliament, and by and with whose consent the Governor was to make such laws as he should from time to time find necessary, which laws, being ratified by the Governor and any three of his five deputies, were to be in force, as provided in the Fundamental Constitutions, that is, until passed upon by the Palatine's court in England.

9. All persons above the age of sixteen years who should come to Port Royal to plant or settle there, before the 25th of March, 1670, were to be granted 150 acres of land for themselves, and 150 acres more for every able man-servant they brought with them or caused to be transported into the colony, and 100 acres more for every woman-servant, and man-servant under sixteen years of age. And 100 acres were to be given to every servant who served out his time.

10. To every free person that should arrive to plant and inhabit before the twenty-fifth day of March, 1671, 100 acres, and 100 more for each servant he brought with him

or caused to be transported into the colony, 70 acres for every woman-servant, or man-servant under sixteen years of age. And to every servant that should arrive before the time last mentioned, 70 acres.

11. To every free person that should arrive before the 25th of March, 1672, with intent to plant, 70 acres, and 70 acres more for each man brought with him, and 60 acres for each woman-servant or man-servant under sixteen years of age. To every servant who should arrive before this time, 70 acres upon the expiration of his term of servitude.

12. The land was to be laid out in squares of 12,000 acres, each of which squares taken up by a Proprietor was to be a seigniory, each taken up by a Landgrave or Cacique to be a barony, each set aside for the people to be a colony. The proportion of 24 colonies to 8 seigniories and 8 baronies was to be preserved.

13. The people were ordered to settle in towns, and that one town at least should be laid out in each colony. No inhabitant of any of the colonies, that is, no common person, was to be allowed to have a greater proportion of front upon a river than a fifth part of the depth of his land.

14. A person having brought out servants to settle was to appear before the Governor and Council, who were thereupon to issue to him a warrant to the surveyor general to lay him out a parcel of land according to these instructions, which survey, when returned, was to be recorded, and the person to whom the land was granted was then to be sworn to his allegiance to the King, fidelity and submission to the Lords Proprietors and the Fundamental Constitutions and form of government, whereupon the grant was to pass under the seal.

The Proprietors thus attempted to evade the provision

in their charter which secured to the freemen in the province the right to participate in the formation of the government, and to force upon them the Fundamental Constitutions which the Proprietors had adopted. The charter gave to the Proprietors, as we have seen, power and authority to make and enact laws, only "by and with the advice assent and approbation of the Freemen of the Province." Disregarding this plain restriction upon their power, the Proprietors formulate in advance an elaborate and minute system of government with the avowed purpose of curtailing the power of the people who should settle the province — as they euphemistically expressed it, to "avoid erecting a numerous democracy." To this plan of government, so devised that in all assemblies or parliaments, as they were grandiloquently termed, the representatives of the people must inevitably be outvoted in all questions by a patrician order established in advance, every freeman before taking part in the government, or being allowed to take out a grant of land, was required to subscribe his submission, and thus commit himself to a waiver of his rights under the Royal charter.

Ramsay, in the introductory chapter to his history, states that neither the number of the first settlers nor their names, with the exception of Sayle and West, have reached posterity. The Shaftesbury papers recently given by the family to the State paper office in London, some of which have been published by the city council of Charleston, have in some degree supplied this information. On the 17th of August, 1669, three vessels, the *Carolina*, the *Port Royal*, and the *Albemarle* lay at anchor in the Downes, with their crews and ninety-three passengers in the *Carolina*, — how many in the other vessels is not stated, — with supplies of all kinds aboard and ready for sea.

Of the ninety-three passengers aboard the *Carolina*, sixteen were masters, one of whom had with him a wife, sixty-three servants, and thirteen persons who brought no servants. The first name is that of Captain Sullivan (Florence O'Sullivan), a name perpetuated in that of Sullivan's Island, Charleston harbor. There is one other name destined to appear much in the history of South Carolina, and which has continued in his family from the very first settlement to the present time. This is the name of Stephen Bull.[1]

[1] *Year Book City of Charleston*, 1883 (Courtenay), 366; Centennial Address, from *Shaftesbury Papers*. *Ibid.*, 1886, 243.

A List of all such Masters, free Passengers and S'v't's which are now aboard the *Carolina* now ridinge in the Downes, August the 10th 1669

CAPT SULLIVAN

Ralph Marshall	James Montgomery
Rich: Allexander	Stephen Wheelwright
Tho Kinge	Eliz Dommocke
Eliz: Mathews	

STEP BULL

Robert Done	Barnaby Bull
Tho Ingram	Jonathan Barker
John Farnworth	Dudley Whistler

ED HOLLIS and JOS DALTON

George Prideox	Thomas Younge
Henry Price	Will Chambers
John Dawson	Will Rowles
Alfrd Harleston	Jane Lawson
Susanna Kinder	

THO* and PAULE SMITH

Alse Rixe	Jo Hollingworth
Jo. Burroughs	Hugh Wigleston
Eliz. Smith	Andrew Boorne
Francis Noone	

HAMBLETON (JNO HAMILTON)

Tho Gourden	Will Lumsden
Jo Frizen	Step Fline
Edw Young	Jo Thomson
Samuel Morris	Tho Southell
Agnis Payne	Jo. Reed.

JO RIVERS.

Tho Poole	Rob. Williams
Henry Burgen	Mary Smallwood

NICH CARTHWRIGHT

Tho Gibbs	Jo Lovde
Martin Bolson	Step Price
Will Jenkins	

MORRIS MATHEWS

Alva Phillips	Reginold Barefoot
Mathew Hewitt	Eliz Currie

WILL BOWMAN

Abraham Smith	Millicent Howe

DOCTOR WILL SCRIVENER

Margaret Tudor.

WILL OWENS

John Humphreys	Christopher Swade
John Barley	

THO MIDDLETON ELIZ. *now ejus*

Rich Wright	Tho Wormes

SAMUEL WEST

Andrew Searle	Will West

JOSEPH BAILEY

John Carruthsell

PASSENGERS THAT HAVE NOE SERVANTS

Mr Tho Rideall	Mr Will Houghton
Mr Will Hennis	Mr Tho Humfreys
Eliz Humphreys	Marie Cooke
Samuel Farnworth	Nathanyell Duckenwell
Mrs Sarah Lepe	Eliz Lepe
Martin Powell	Mrs Mary Lepe
Thomas Mottershed	

* This Tho. Smith has been supposed by some to have been the Thomas Smith the Landgrave; but this is a mistake. Landgrave Smith did not come to Carolina until 1687.

The fleet stopped at Kinsale, but took in only seven servants there, and sailed according to instructions to Barbadoes, which was reached in October; it was consigned to Thomas Colleton, one of the distinguished family of that name in Barbadoes — a son of Sir John, one of the original Proprietors, and brother of Sir Peter, the present Proprietor, who had once been temporarily Governor of that island, and of James, who afterwards was to become Governor of this province.

Besides the causes of discontent of the planters of Barbadoes to which we have alluded, a succession of dreadful hurricanes had occurred, which, added to the fact that the island was over populated, and that the planters were leaving for the Bahamas and other islands, induced the Proprietors to hope that their colony would find many there who would join it for the new province. It was thought that over one hundred emigrants might be secured there. In securing these the influence of Sir John Yeamans and Thomas Colleton was much relied upon; but many disasters occurred at Barbadoes. While lying there on the 2d of November a gale struck the fleet and the *Albemarle* was driven on the rocks of the coast and shipwrecked. One of the cables of the *Carolina* was also broken and the *Port Royal* lost an anchor and a cable. To save the ship's stores, many were put ashore until repairs could be completed and another sloop hired to continue the voyage. Another vessel was also procured in the place of the *Albemarle*.

Sir John Yeamans encouraged the expedition, and determined to go with it himself to Port Royal. The fleet sailed, but was soon forced to put in at Nevis, a British West India island. There they found Dr. Henry Woodward, whom Sandford had left with the Indians at Port Royal in 1665. He had been well treated by the Indians, but had been surprised and captured by Spaniards at St. Helena, and

taken prisoner to St. Augustine; he had been rescued and carried to the Leeward Islands, from which he shipped as surgeon of a privateer and was cast away on the island in the hurricane of the 17th of August which had wrecked the *Albemarle*. Notwithstanding these adventures, he promptly volunteered to join the expedition, and to give it the benefit of his experience. His services were at once accepted.[1]

Sir John Yeamans here put on board the *Port Royal* one Christopher Barrowe, with instructions to pilot the ship to Port Royal. From Nevis the fleet had good weather until near land, when the *Port Royal* parted from the other vessels. The *Carolina* and the Barbadian sloop reached Bermuda. By the advice of Barrowe the *Port Royal* sailed southward and, endeavoring to touch at the Bahama Islands, was cast away near Abaco, one of those islands, on the 12th of January, 1669–70. The company reached the shore by means of the small boat, but many lost their lives on that island. Here Russell, the master of the *Port Royal*, built a boat in which they got to Eleuthera, another of the Bahama Islands, where he hired a shallop and sailed to New Providence, whence most of the survivors obtained transportation to Bermuda. The rest they left at Providence, except Barrowe and his wife, who went to New York.[2]

At Bermuda Sir John withdrew entirely from the management of the expedition, assigning as his reason that he was obliged to return to Barbadoes to be in readiness to act as one of the commissioners previously appointed for negotiating with French commissioners in regard to their dispossession and expulsion of the English

[1] *Calendar of State Papers, Colonial*, London, 1889, 246.

[2] *Year Book City of Charleston* (Courtenay), 1883, 369; *Shaftesbury Papers*.

settlers from their plantations in St. Christopher's Island in 1666. Upon his withdrawal, he persuaded the adventurers to take William Sayle, whom he describes as "a man of no great sufficiency yet the ablest I could meet with," and inserted his name in the blank commission which he had from the Lords Proprietors. A reason he assigned for doing this was that being a Bermudian he thought Sayle might induce others to embark with them in the enterprise. Thus accidentally was the first Governor of South Carolina appointed.[1]

The deputations in blank were filled as follows: Joseph West, deputy for the Duke of Albemarle, Dr. William Scrivener for Lord Berkeley, Stephen Bull for Lord Ashley, William Bowman for Lord Craven. Florence O'Sullivan must have represented either Sir George Carteret or Sir Peter Colleton.[2]

The appointment of Sayle gave rise to much discontent. A writer describes him as "of Bermuda, a Puritan and nonconformist, whose religious bigotry, advanced age and failing health promised badly for the discharge of the task before him." Two others of the party, William Scrivener and William Owen, were for bringing suit against Sir John, but the matter was "salved over" and the expedition sailed from Bermuda February 26, 1669–70, a sloop having been procured in the place of the *Port Royal*.

After leaving Bermuda, the expedition encountered bad weather again. The *Carolina* and the Bermuda sloop succeeded in keeping near each other, but the Barbadian sloop was separated and did not rejoin the others until

[1] *Year Book City of Charleston* (Courtenay), 1883, 369, 370; *Hist. Sketches of So. Ca.* (Rivers), 88.

[2] This list has been collated by and kindly given me by Langdon Cheves, Esq.

about the 23d of May, more than a month after their arrival at Ashley River.

Mr. Hugh Carteret, who was in the *Carolina*, gives an account of his trip from Bermuda. He writes: —

"Sayling thence on Feb'y 26th we came up with land between Cape Romano and Port Royall at a place called Sowee or Sewee and next day brought the ship in, through a very handsome channel and lay there at anchor a week."[1]

The first landing of this expedition was thus made about March 17, 1670, in Sewee Bay at the back of Bull's Island. The name and the fact that "the ship came in through a very handsome channel" establishes this with great certainty. The Indians there informed Sayle that a tribe known as the Westoes had ruined St. Helena and the country northward as far as Kiawha (Ashley River) about a day's journey distant. The Cacique of Kiawha, presumably the same who had endeavored to persuade Sandford to visit his country three years before, now again came to the ships and renewed the praises of their land. Taking him aboard after a conference, Sayle and his party left their anchorage and, sailing to the southward, entered Port Royal. It was two days before they could communicate with the Indians, who confirmed what had been told them at Sewee.

During their short stay at Port Royal, Governor Sayle summoned the "freemen," according to the instructions accompanying his commission, to elect five men "to be of the council," and they elected Paul Smith, Robert Donne, Ralph Marshall, Samuel West, and Joseph Dalton as their representatives. This was the first election in South Carolina. We have no record whether it was by ballot or by poll. William Owen, "always itching to be in

[1] *Year Book City of Charleston* (Courtenay), 1883, 370; from *Shaftesbury Papers*.

authority," censured the legality of the election, whereupon the freemen met a second time and confirmed their former choice.

The expedition then left Port Royal and ran in between St. Helena Island and Combahee. Many went ashore at St. Helena and found the land good and many peach trees. From this point the Bermuda sloop was dispatched to Kiawha to view that land so much commended by the Cacique, and word was brought back that the land was better to plant. After some discussion, the Governor favoring Kiawha, it was determined to settle permanently there. Anchors were weighed, the vessels stood to the north, and entering what is now Charleston harbor, then called by the Spaniards St. George's Bay, the colony landed in April on the first high point on the western bank of the Kiawha, which Sandford in passing had called the Ashley.[1] The point on which they settled they named "Albemarle Point."

Mr. Morris (or Maurice) Mathews, who was in the Barbadian sloop procured to supply the place of the *Albemarle* which was lost at Barbadoes, has left an account which enables us to follow that sloop in her perils after leaving Bermuda.

On the 15th of May, by stress of weather, she was driven to the Island of St. Catharine about latitude

[1] Indians did not name rivers. Settlers in America often named them from the neighboring Indian tribes, but did not find them so called. Sandford says: "I demanded the name of this River. They told mee *Edistoree* still and pointed all to be *Edistoree* quite home to the side of *Jordan* by which I was instructed that the *Indians* assigne not their names to the Rivers but to the Countryes and people." — *Year Book City of Charleston* (Courtenay), 1885, 275. The first colonists called this river Keawaw, or Ashley. On Gilpepper's first map of the settlement, March 7, 1672, Cooper River is put down as the Wando, and the present Wando as the Etiwan.

31 degrees. There they proceeded to "wood and water" the vessel. They traded with the Indians and entertained them aboard the vessel. On the next day "a semi-Spaniard Indian" came aboard with a present of bread set for the master and promised pork in exchange for "truck." On the 17th the master and mate and Mr. Rivers, who also was in this company, three seamen and one man-servant went ashore with truck to buy pork — for the sloop's use. Two other men-servants went ashore to cut wood and two females to wash linen. The Spaniards and Indians treacherously made prisoners of a part or all ashore and commanded the sloop "to yield to the sovereignty of St. Domingo." This demand was declined, whereupon the Spaniards, finding that their demands were not obeyed, opened fire with their muskets and bows, but only succeeded in damaging the vessel's sails. The next day a favorable wind springing up, the men aboard the sloop gave the Indians a parting salute with their muskets, which sent them behind the trees, and hauled the ship out of gun-shot. Leaving the island, several days were spent in sailing about the Carolina coast until they arrived opposite "Odistash" (Edisto). Here the Indians welcomed them, told them of the English at Kiawha, and offered to show them the way over. The next morning they arrived at the entrance to Kiawha, where they met the Bermudian sloop going to fish, which piloted them into Kiawha River. The prisoners taken by the Spaniards were subsequently sent to St. Augustine.[1]

The colonists were thus once more united. Two out of the three ships that sailed from the Thames and some lives had been lost. Just how many of the original company arrived at Kiawha cannot now be ascertained. The

[1] *Year Book City of Charleston* (Courtenay), 1883, 372; *Colonial Records of No. Ca.*, vol. I, 207.

company had been increased at Barbadoes, and some also had probably joined at Bermuda. One ship only of the original expedition reached Carolina. Five had been engaged in the expedition from the time the colonists left the Downes to the landing at Kiawha.[1]

It is a curious and interesting circumstance that just about this time Sir William Berkeley, the Governor of Virginia, had commissioned John Lederer, a learned German, to make explorations to the mountainous part of that province, and that in his wanderings with a single Indian guide he is believed to have reached the Santee, and if so, had he crossed that river and pushed on a little farther, he might have found Governor Sayle and the colony only just arrived. Dr. Hawks, the historian of North Carolina, however, upon a careful study of Lederer's journal as translated by Sir William Talbot, Governor of Maryland, from the original, which was written in Latin, and a map which accompanied it, concludes, we think judiciously, that the wanderings of the learned German were within the present boundaries of the State of North Carolina.[2]

[1] This account of the voyage of the colonists has been collated principally from the Centennial Address of Major W. A. Courtenay, *Year Book City of Charleston*, 1883, and by him compiled from MS. *Shaftesbury Papers* of the So. Ca. Hist. Society, now about to be published.

[2] *Hist. of No. Ca.* (Hawks), vol. II, 43.

CHAPTER VI

1670–71

THE colonists, upon landing at Albemarle Point on the Ashley, entrenched themselves and began to lay out streets and town lots, and to build fortifications and houses. They were gladly received by the Indians in the neighborhood, whose Cacique had so urgently pressed them to settle there, not altogether unselfishly, however, but because of the protection the Kiawhas hoped the colony would afford them against the Westoes, who then inhabited the region about Port Royal, and of whom they stood in mortal dread, representing them as cannibals. The Kiawhas brought the settlers venison and skins for trade, and oysters were found in great plenty, though not so pleasant to the taste "as your Wallfleet oyster." The turkeys were bigger than those at home. As the Kiawhas, however, could not take care of themselves, still less could they secure the new-comers from the other Indians, and the colonists were obliged to stand continually on their guard. While one party was employed in raising their little habitations, another was always kept under arms to watch the Indians.[1]

Nor were the Indians their only or their worst foes. The peace concluded between England and Spain in 1667, and the recognition by Spain of the rights of England

[1] *Calendar State Papers, Colonial*, London, 1889, 255–257; Hewatt, *Hist. of So. Ca.*, vol. I, 49.

to her possessions in America, was one of the inducements to the Proprietors to begin the settlement of their province. But Spain, while acknowledging the right of England to such possessions, had not agreed to any definition of her territory. She had never admitted the right of England to that covered by the charters of the Proprietors. She still claimed a greater part of it as belonging to Florida. Charleston harbor was still hers, as St. George's Bay. The Spaniards at St. Augustine were thus for near a century a thorn in the side of the colony of Carolina. There was a castle there usually garrisoned by about 300 or 400 regular troops. Besides these, the inhabitants of the towns, many of whom were mulattoes of savage dispositions, were all in the King's pay and formed into a militia, computed to be about the same number as the regular troops. This idle population, relying on the King's pay only, giving no attention to agriculture or trade, or any other peaceful pursuit, were ready at all times for mischievous adventures, and furnished a body whose deeds of hostility might be conveniently avowed or disowned as circumstances required. These people, regardless of the declaration of peace, had no idea of standing by and idly looking on the establishment of an English colony at St. George's Bay. They sent an expedition at once to break it up. The vessel they sent entered the Stono, but finding the colonists on their guard and stronger than they had expected did not attack, but returned to St. Augustine. They had, however, shown the settlers on the Ashley River that they were but an outpost to the other English colonies in America, liable at any moment to be attacked, and beyond the reach of timely assistance. Governor Sayle, notwithstanding his great age, shared in all the hardships with his fellow-adventurers and by his example animated and encouraged

them to perseverance. In May the *Carolina* was sent to Virginia for provisions, and on the twenty-seventh day of June the Barbadian shallop was dispatched to Bermuda for settlers and for supplies. The *Carolina* returned on the 22d of August to Kiawha and in September was sent to Barbadoes, whence she did not return until early in the next year.[1]

Governor Sayle is said to have been a Puritan, and the style and tone of the following letter, which he wrote to Lord Ashley from Albemarle Point on the 25th of June, 1670, is certainly in accordance with the temper of that religious class, though it was a clergyman of the Church of England for whose ministrations he was appealing — a clergyman for whom Sir John Yeamans had promised to procure a commission from the King to make him their minister. He writes : —

"Though we are (att pr'sent) under some straight for want of provision (incident to the best of new plantations) yet we doubt not (through the goodness of God) of remits from sundry places to w'ch we have sent. But there is *one thing* which lyes very heavy upon us, the want of a Godly and orthodox minist'r w'ch I and many others of us have ever lived under as the greatest of o'r Mercys. May it please your Lords'p in my late country of Bermudas there are divers Minstr's of whom there is one Mr Sampson Bond heretofore of long standing in Exeter Colledge in Oxford and ordaigned by the late Bishop of Exeter the ole Do'r Joseph Hall. And by a commission from the Earl of Manchester and company for the Sumer Islands sent theere in the yeere 1662 for the term of three yeeres under whose powerfull and soul-edefying Ministry I have lived eight yeeres last past. There was nothing in all this world soe grievous to my spirit as the thought of parting with his Godly society and faithfull ministry. But I did a little comfort myself that it might please *y'r*[2] Lord by some good measure or other to enclyne his heart to come after us, who hath little respect from some who are now in authority in Ber-

[1] Hewatt, *Hist. of So. Ca.*, vol. I, 51.

[2] Probably should be *ye*.

mudas w'ch is a great discouragm'nt to him, w'ch is taken notice of in other places, and he is invited to Boston in New England and to New York by the Govern'r there tenders of large encouragement if he will come to ye one or other place. I have likewise writt most earnestly to him desiring that he would come and sitt downe with us, assuring him that it is not only my urgent request, but withall the most hearty request of ye colony in generall, who were exceedingly affected with him and his ministry all the tyme they were in Bermudas."[1]

Again in a letter of 9th September, in which Florence O'Sullivan, Stephen Bull, Joseph West, William Scrivener, Ralph Marshall, Paul Smith, Samuel West, and Joseph Dalton join, he urges the great want of an able minister by whose means corrupted youth might be reclaimed and the people instructed. The Israelites' prosperity decayed when their prophets were wanting, for where the ark of God is, he says, there is peace and tranquillity.

The Lords Proprietors authorized an offer to be made to Mr. Bond of 500 acres of land and £40 per annum to come to Carolina, but they declared that though allowed to be a preacher among the colonists, they gave neither him nor Sayle authority to compel any one in matters of religion, having in their Fundamental Constitutions granted a freedom which they resolved to keep inviolable. Mr. Bond did not come, but remained at Bermuda many years afterwards.[2]

While Sayle and other leaders of the colony were doubtless men of strong religious character, the company generally was composed of adventurers of the ordinary type; men no doubt of irreligious and reckless lives. So we read that on the 4th of July, the Governor and Council, having been informed how much the Sab-

[1] *Shaftesbury Papers; Calendar State Papers, Colonial* (Sainsbury), 1889, 202, 480; *Year Book City of Charleston* (Courtenay), 1883, 374.

[2] Anderson's *Hist. of the Colonial Church*, vol. II, 336.

bath day was profanely violated, and of divers grand abuses practised by the people to the great dishonor of God Almighty and the destruction of good neighborhood, took seriously into consideration by what means these evils might be redressed. And here at once the absurdity of the grand model of government with which they had come encumbered, and the inadequacy and unsuitableness of their powers even under the instructions to the Governor and Council, became apparent. By the latter, the Governor, with the five deputies of the Proprietors and the five "freemen" elected at Port Royal, were to govern according to the limitations and instructions of the Fundamental Constitutions as far as was practicable; but they were required also to summon the "freeholders" to choose twenty persons who, with the deputies, were to form a Parliament. Now it was found that the number of freeholders in the colony were "nott neere sufficient to elect a Parliam't." The Governor, thereupon, with the consent of his Council made such orders as were thought convenient to suppress the abuses.[1] Such temporary orders were expressly provided for under the provisions of the charter, but had not been either under the constitutions or the instructions brought out by Governor Sayle. Nor was there found wanting in the colony one astute enough to perceive the dilemma, though there was no lawyer among these people, who by the constitutions were to attend each to his own law business. The Governor summoned all the people to hear the orders he had determined upon. Mr. William Owen, the same who had "censured the legality" of the election held at Port Royal, and who is now described as one "willing to doe any thing though ever so ill in itselfe, rather than

[1] *Shaftesbury Papers; Calendar State Papers, Colonial* (Sainsbury), London, 1889, 181; *Year Book City of Charleston* (Courtenay), 1883.

not to appeare to be a man of accion," persuaded the people that without a Parliament no such orders could pass. In this he was supported by Dr. William Scrivener, deputy of Lord Berkeley. While the Governor and Council were discussing this new point and other matters, Owen, constituting himself manager and returning officer, held election on the 4th of July and took down the names of those elected. The Governor and Council, in their account of the matter, say that two of the Parliament men returned were servants — "Mich Moran a laboring Irishman and Rich Crossley set free by his master for idleness"; but among the Shaftesbury papers is one entitled "Mr. Owen's Parliament's Return," which gives the names of those elected; viz. Maurice Mathews, Henry Hughes, John Jones, Thomas Smith, Henry Symons, Henry Woodward, Hugh Carteret, James Marschall, Anthony Churne, William Kennis, George Beadon, Jonathan Baker, Thomas Ingram, Thomas Norris, and Will Owen. The names of the two servants, Moran and Crossley, do not appear. Though "Mr. Owen's Parliament's Return" recites that the election was held by the Governor's orders and summons, the Governor and Council took no notice of it, and the Governor's orders were published and received without further question.

Owen and Scrivener were not, however, so easily subdued. The Governor and Council complain to the Lords Proprietors that Owen, finding himself "swallowed up in a general consent," fell upon a new stratagem, and persuaded the people, especially the new-comers, that as there was no great seal in the province, unless a Parliament were forthwith chosen to prevent it, their lands and all their improvements might be taken away at pleasure. "Now," says the Governor, "Owen hath hit the mark, he is what he would be, the leader of a company of people

upon any terms, the people's prolocutor, and therefore must have room in the council to show himself and the people's grievances." The Governor and Council patiently heard, they declare, Owen's argument upon the interpretation of their Lordship's instructions, after which the Governor made a speech to the people, giving them to understand his power and authority to assure them their lands until their great seal arrived, and that he intended to summon a Parliament when opportunity served or necessity required; whereupon, he says, all or most of the freemen were fully satisfied. Scrivener, however, he goes on to say, perceiving that Owen and himself were likely to lose reputation as men of understanding, rose up, and with more than ordinary heat desired the people to take notice that he conceived their proposals — that is, that it was necessary to have a Parliament called to secure their lands from forfeiture — very just and reasonable, and that those who would not support them were disturbers of the peace and infringers of the people's liberties. This was more than the Governor and Council could stand, and they report that for such speeches, tending to the slighting and utter destruction of the present government, and inciting the people to sedition and mutiny and consequently to the ruin of the settlement, it was that same day ordered that from thenceforth Scrivener be suspended from the Council, and that both he and Owen be incapable of bearing any public office or employment in the colony until further orders.[1] Scrivener was, however, soon back in the Council. In November Braine writes to Lord Ashley that there are but five men in the Council that have any reason, — Captain West,

[1] *Shaftesbury Papers; Calendar State Papers, Colonial*, London, 1889, 413, 329, 471, 473; *Year Book City of Charleston* (Courtenay), 1883, 375.

Messrs. Bull, Scrivener, Dun, and Dalton.[1] And Owen, too, whose election to Parliament by the people in July, 1670 the Governor would not allow, some time after took his seat in the Council itself, as the deputy of Sir Peter Colleton.[2] In the meanwhile he is in correspondence with Lord Ashley, who thanks him for his letters, which indeed are among the ablest written from the colony.[3] Writing to Robert Blaney, secretary to Lord Ashley, he speaks not unkindly of the Governor. He cannot believe but that the Governor is honest, but whether of parts sufficiently qualified in judging civil rights he cannot tell. A man for this place must be of parts, learning, and policy, and of a moderate zeal; not strict Episcopal, nor yet licentious nor rigid "Presbyterian nor yet hypocritical, but saving himself in an even balance between all opinions, but especially turning his fore to the church of England."[4]

The *Carolina*, under command of Captain Henry Braine, which had been sent to Virginia in May, 1670, returned, as we have seen, to Kiawha on the 22d of August with supplies. Florence O'Sullivan had written to Lord Ashley by her, by the way of Virginia, and he wrote again on the 10th of September, that the country proves good beyond expectation, abounding in all things, as good oak, ash, deer, turkeys, partridges, rabbits, turtle, and fish, and the land produces anything that is put into it; for they had tried it with corn, cotton, tobacco, and other provisions, which did well, the lateness of the season considered. He had made discoveries in the country, and found it good, with many pleasant rivers.

The *Carolina* had returned from Virginia in good time;

[1] *Calendar State Papers*, 329, 473.

[2] *Ibid*, 721; Dalcho's *Ch. Hist.*, 11.

[3] *Calendar State Papers*, 261, 491.

[4] *Shaftesbury Papers; Calendar State Papers*, 473.

for all the provisions were gone, and the colonists forced to live upon the friendly Indians, some of whom were very kind to them. She then sailed again for Barbadoes, seeking emigrants and fresh supplies. O'Sullivan was evidently not a Puritan, as Sayle was, nor did he believe in the doctrine of the Fundamental Constitutions, that the colony could get along without lawyers. He writes: —

"Wee expect from yo^r hono^rs a shipp from England w^th more people, you wold doe well to grant free passage to passengers for some small tyme for many would be willing to come y^t are not able to pay their passage, pray send us a minister quallified according to the Church of England, and an able councellor to end controversies amongst us and put us in the right way of the managem^t of yo^r coll — we hope now the worst is past if you please to stand by us" etc.[1]

Dr. Henry Woodward, who had been found at Nevis and was with the expedition when Sir John Yeamans left it at Bermuda, writes to Sir John on the same day that O'Sullivan writes to Lord Ashley (10th of September), excusing himself for not having written since his Honor left Bermuda for Barbadoes, and he with the others set forward for the main, and tells of a country he had discovered, so delicious, pleasant, and fruitful, that, were it cultivated, it doubtless would prove a second paradise. He describes it as lying west by north fourteen days' travel after the Indian manner of marching.[2] He had formed a league with the Emperor of this land of Chatytachygs and of all the petty "cassiks" between the Emperor and themselves, and so upon his return, the *Carolina* being still absent on her voyage to Virginia and provisions running low, he had been enabled to procure provisions from the natives. He tells of the threat of invasion by the

[1] *Shaftesbury Papers; Colonial Records of No. Ca.*, vol. I. 207.

[2] Supposed to be the land of Cofachiqui, visited by De Soto in 1540, near or upon the sources of the Savannah River, where the States of North and South Carolina and Georgia border upon each other.

Spaniards, which he conceived was designed in the hope of intercepting the *Carolina* on her return from Virginia, yet it pleased God the ship arrived safely with her most convenient supply.[1]

Governor Sayle's health, from his great age and the fatigue and exposure incident to the settlement of the colony, soon failed. On the 30th of September he executed a will whereby, declaring himself weak in body, but (blessed be God) in perfect mind and memory, he devised "his mansion house and Town Lot in Albemarle Point to his eldest son Nathaniel Sayle." He lived, however, until the March following, when he died, aged about eighty years.[2] He was authorized by his commission, with the advice and approbation of his Council, to nominate a deputy to succeed him in case he should die or depart from the province, who should act as Governor until the pleasure of the Proprietors should be known.[3] On the morning of the 4th of March, finding his strength failing, but in full possession of his senses, he sent for his Council and nominated Joseph West as his successor under this power. The nomination was approved, and upon his death West assumed the government.[4]

The death of the Duke of Albemarle had preceded Governor Sayle's a few months. Lord Ashley writes to West on the 1st of November, that the present Palatine is Lord John Berkeley, Lord Lieutenant of Ireland, who has succeeded the Duke of Albemarle, deceased.[5] But his Lordship was not regularly admitted as such until the 20th of January, 1669–70.[6]

[1] *Shaftesbury Papers; Colonial Records of No. Ca.*, vol. I, 208.

[2] *Hist. Sketches of So. Ca.* (Rivers), 96; Appendix, 385.

[3] *Ibid.*, 340, 341.

[4] *Shaftesbury Papers; Calendar State Papers* (Sainsbury), London, 1889, 472; *Year Book City of Charleston* (Courtenay), 1883, 375.

[5] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 313.

[6] *Colonial Records of No. Ca.*, vol. I, 180.

The Council organized by Sayle continued to govern the colony until the Proprietor's ship, the *Blessing*, brought further instruction in August, 1670. Captain Halsted, the master, was, by these instructions, upon reaching the *Ashley*, first to deliver eight small guns with their carriages to the Governor and Council, and then with all convenient speed to procure a loading of timber staves and other commodities suitable for the market at Barbadoes, to which he was to sail as soon as he secured his freight. During the lading of his vessel he was to take a strict and particular account of the stores which had been brought out by West as storekeeper, also of the cargo from Virginia and the provisions received from Bermuda. West and Braine, while at Bermuda, had drawn on Mr. Colleton for 12,000 pounds of sugar, and had since drawn on him for a similar amount. Captain Halsted was to inquire in what this sugar was laid out, also for the beef and flour Mr. Colleton had sent. He was to take a receipt of Mr. West for the cargo he was to deliver. If he had time during the lading of the ship, he was to take a view of the country, especially of Ashley River, to seek a healthy highland convenient to set out a town, as high up as a ship could well be carried, and to do the same in Wando and also "Sewa River." He was to inquire concerning the healthfulness, richness, and other properties of the soil, especially whether the country produced timber for masts. As soon as his vessel was laded, he was to sail for Bridge Town, Barbadoes, there to dispose of the timber upon the best terms, consulting Sir John Yeamans and Mr. Thomas Colleton as to the best course for securing passengers for Ashley River, which was to be the main purpose of his voyage thither. At Barbadoes he was also to inquire about those bills charged upon them by Mr. Colleton. As soon as he had secured

passengers, he was to sail again for the Ashley River and, delivering them there, to sail to Virginia, and then to lay out the produce of the rum and sugar he was to take in at Barbadoes, in cattle which he was to take back to the Ashley. His instructions then provided for another voyage to Barbadoes with lumber, the proceeds of which he was to invest in a cargo fit for the Bahamas, where he was also to seek passengers back to the Ashley. In all his trips to any place in the West Indies he was enjoined to remember that the chief employment of his ship should be to carry people to their plantation on the Ashley, and that traffic was to be subservient to this purpose.[1]

Captain Halsted also brought out with him a set of laws, styled "Temporary Laws," which the Proprietors had adopted to be administered until there was a sufficient number of inhabitants to warrant the enforcement of the Fundamental Constitutions in all particulars; but these Temporary Laws did but little to relieve the situation. The officers and machinery of the government retained were out of all proportion to the numbers of the colony. The government as prescribed was still absurdly top-heavy. For a colony at first of not more than 200, and which in two years did not double its numbers, it was still proposed to maintain a Grand Council, Parliament, and numerous officers of the highest grade known to European governments. The Palatine was to name the Governor, and each Lord Proprietor a deputy, which deputies, and an equal number of others chosen by the Parliament, should continue to be counsellors until the Proprietors should order a new choice or the country be so peopled as to be capable of the grand model of government. When Landgraves or Caciques should be created by the Proprietors, so many of the eldest of them as should be resident in the province

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 359–362.

as would equal the number of the Lords Proprietors' deputies should be added to the Council, so that the nobility should have a share in the government. The Governor with the Lords Proprietors' deputies, the Landgraves, and Caciques (of the Council), and those chosen by the Parliament were to be a Grand Council and have all the power and authority of such under the constitutions and of other courts until they should be evicted. Besides these there were to be a Chief Justice, who should appoint a Chief Marshal, a Chancellor, Treasurer, High Steward, High Chamberlain, Admiral, Secretary, Receiver, Surveyor, Register, and Marshal of the admiralty.

To suit the beginning of the government and to prevent the taking up great tracts of land sooner than they could be settled, it was provided that until by the increase of the inhabitants parts of seventy-two colonies should be possessed by the people, each Proprietor should have but three seigniories and each Landgrave and Cacique but one barony. Lords of baronies and manors were to be required to have each upon his barony thirty persons and upon his manor fifteen within seven years after the date of his grant.

To these provisions were added two others. First, that no Indian upon any occasion or pretence whatsoever was to be made a slave or without his own consent be carried out of the country. Second, a provision for keeping full the number of the deputies of the Proprietors in the Council by directing how vacancies should be supplied.[1] Notice was brought at the same time that Mr. James Carteret, Sir John Yeamans, and Mr. John Locke had been made Landgraves.[2] The Royal charter, as we have pointed out, empowered the Proprietors to confer titles

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 351, 353.

[2] *Ibid.*, 103; Appendix, 368.

only "upon such of the inhabitants of the province" as they should think fit; but here we see them in the very outset making persons who had never even been in the colony of Carolina Landgraves. Captain Halsted was also instructed to tell the settlers, with reference to the supply of provisions which he carried to them, that the Proprietors had "been so much out of purse" for their good that it was expected of them in return to be "fair and punctual" in repaying what they had got; "upon which fair dealing of them will depend the continuation of our supplies."

We cannot refrain from remarking, observes Rivers, that the "true and absolute lords" of the immense region of Carolina, with all its mines, quarries, and fisheries, whose object was declared to be the diffusion of the Christian religion among those who knew not God, must now have appeared to the colonists to abandon their dignity and best policy for sordid calculations. Instead of the Gospel, the Indians were offered only glass beads; and the needy colonists, who were yet struggling to maintain themselves, were required to repay what had been granted them (with ten per cent interest) by preparing cargoes of timber "at moderate rates." Their Lordships were already "so much out of purse" for their benefit that unless punctual payment should be made, the settlers should expect from them no ammunition or fish-hooks, blankets or provisions. At the same time a nobility was thrust upon them, the first set of the "unalterable" Fundamental Constitutions were repudiated and another set with essential alterations substituted, and numerous laws established without the concurrence of the people as the charter provided, and to which they were required to yield an unmurmuring obedience.

All these circumstances, however, were not yet known in the infant colony, and comparative harmony prevailed through the prudent management of Governor West, who

looked rather to the necessities by which he was surrounded than to the plans and theories that emanated from the other side of the Atlantic.[1]

The colony increased but slowly. The *Carolina Packet*, having returned from Virginia, sailed again for Barbadoes in September, 1670. Upon her arrival there, Major Kingsland, Thomas Colleton, and Sir John Yeamans issued a proclamation stating that the Proprietors had provided the vessel for the transportation of such people, with their servants, negroes, and utensils, as would be ready to depart in thirty days. They promised that each person who had underwritten 1000 pounds of muscovado sugar towards defraying the expenses of Captain Hilton's voyage of discovery in 1664 would have lands allotted to him. Those who were minded to go, but unable to pay their own passage, would be transported upon their agreeing, within two years after their arrival, to pay 500 pounds of merchantable tobacco, cotton, or ginger, or of whatever they should first produce. Mr. John Strode and Mr. Thomas Colleton also fitted out a vessel of their own, the *John and Thomas*, and made great exertions to procure emigrants. The *Carolina* sailed from Barbadoes early in 1671, with sixty-four new settlers, and the *John and Thomas* took to the Ashley forty-two more. Among the latter was Captain Godfrey, who had been a deputy in the Council in Barbadoes and who went out upon the persuasion of Sir John Yeamans. He took with him five men, — hands, as they were called, — also Mr. Gray, overseer to Sir John, who carried ten able men, most of them carpenters and sawyers.[2] There were also of the party Captain Thomson and Mr. Culpepper. These, Stephen Bull writes to Lord Ashley,

[1] *Hist. Sketches* (Rivers), 104, 105.

[2] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 313, 338, 541, 432.

were all settled within five days, as close together as convenient. The greatest distance that any person or family is seated, he says, is less than two miles either up or down the river from the town. In August, 1671, the *Blessing* brought out several families from England and, sailing at once for New York, returned in December with a company of emigrants from the Dutch settlement of Nova Belgia, which had recently passed under English rule. The ship *Phœnix* also brought a number of families from the same place. The principal of these new-comers was Mr. Michael Smith with whom a committee of council were directed to lay off a town to be named James Town, the houses in which should be twenty feet long and fifteen feet broad at least. It was ordained that in future a list of all immigrants should be recorded in the Secretary's office and that captains of vessels should give bond not to carry off any of the inhabitants without a special license. Before the furnishing of such list and bond, no vessel could land any part of its cargo.[1]

On the 20th of January following, 1671–72, Joseph Dalton, Secretary of the colony, writes to Lord Ashley: "By our records it appears that 337 men and women 62 children or persons under 16 years of age is the full number of persons who have arrived in the country *in*, and *since* the first fleet out of England to this day, whereof 43 men 2 women 3 children are dead, and 16 absent so as there now remains 263 men able to bear arms 69 women, 59 children or persons under 16 years of age."[2]

With the Temporary Laws, a model of a town was also sent, referring to which Oldmixon, writing in 1708, caustically observes: "It will be well if the people of Carolina

[1] *Hist. Sketches of So. Ca.* (Rivers), 100.

[2] *Calendar State Papers, Colonial*, London, 1889, 736; *Year Book City of Charleston* (Courtenay), 1883, 370; *Hist. Sketches* (Rivers), 100.

are able to build 100 years hence; but the Proprietaries as appears by their constitutions and instructions to the Governors thought 'twas almost as easy to build towns as to draw schemes."[1] Paying no attention to the model, and not even regarding the instructions of the Proprietors to the Governor and Council that in the first town the houses should be built so that the guns of the fort might command all the streets, it appears that the land was promiscuously taken up and occupied as a town without any regard to its form or convenience. As early as the 1st of November, 1670, Lord Ashley wrote to West that he was to take notice that Ashley River had been so named by Sandford, and was still so to be called, and that the town as now planted out is to be called "Charles Town." But it was not until the 1st of September, 1671, that the name appears to have been adopted.[2]

In order to provide for the accommodation of the newly arrived emigrants, the Governor and Council, on the 5th of September, 1671, directed the Surveyor General to lay out a town on Stono Creek, adjoining land of Mr. Thomas Gray, near Charles Town, containing twenty-five acres, of which five acres were to be reserved for a churchyard. For the Dutch from New York, on the 20th of December, a town was ordered to be laid out on a creek to the south of Stono, to contain thirty acres. The place was soon abandoned, the settlers spreading themselves over the neighboring country. Lands were soon taken up on the east side of the Ashley, and settlements were formed in

[1] Oldmixon, *Carolina* (Carroll's *Coll.*), 405.

[2] *Calendar State Papers, Colonial*, London, 1889, 124, 195, 255. During the Proprietary Government the name of the town was written thus, *Charles Town*. During the Royal Government it was written *Charlestown;* and since the incorporation of the city, after the Revolution (1783), it has been written *Charleston*.

various parts of the neighborhood. On the 24th of October commissioners were appointed by the Grand Council to examine the banks of the Ashley and the Wando, or Cooper, River, "and to make a return of what places might be most convenient to situate towns upon, that the same might be wholly reserved for these and other like uses." And again, January 13, 1671–72, Captain John Godfrey, Captain Thomas Gray, and Mr. Maurice Mathews were appointed to so view Wando River and there to mark such place or places as they should think most convenient for the situation of a town or towns, and to report thereof with all convenient speed; and it was ordered that no person should run out or mark any lands on the Wando or any of its creeks until such report should be made. The colonists were thus exploring and examining the country around before they finally settled upon the permanent location of the town.[1]

While they were thus engaged, the Indians began to be troublesome. The tribe of Kussoes, inhabiting northeast of the Combahee River, were the first among the neighboring tribes to assume an attitude of open hostility. They and their confederates in the small tribes began in the summer of 1671 to withdraw themselves from their usual familiar intercourse with the colonists, and to discourage other Indians who were friendly and in the habit of visiting the town for the purpose of traffic. The Kussoes declared themselves to be in favor of the Spaniards, with whose aid they intended to destroy the English settlements. Day by day their behavior became more insolent, and on every slight occasion they threatened the lives of the whites, whose property and provisions they looked upon as objects of plunder. Every unguarded farm suffered from their nightly depredations. More

[1] Dalcho's *Ch. Hist.*, 12, 13.

open acts of hostility were only prevented by the constant vigilance of the settlers.

On the 27th of September the Governor and Council declared war against the Kussoes and their confederates. Commissions were granted to Captain Godfrey and Captain Gray. Two Kussoes who were then in town were immediately seized and placed in custody. So accustomed, says Rivers, were the colonists to be on the alert and to bear weapons in hand to protect themselves from surrounding dangers that within seven days companies were formed, the enemy's country invaded and surprised; many of the Indians were taken captive and ordered to be transported from Carolina, unless the remaining Kussoes sued for peace and paid such a ransom for the prisoners as should be thought reasonable by the Grand Council.[1]

In the winter of 1671 a scarcity of provisions rendered it probable that the settlers would suffer great distress. Governor West wisely ordered that all the supplies in the store of the Proprietors should be frugally distributed to the needy; that all occupations, except those of carpenters and smiths, should be suspended for the planting and gathering of a crop of provisions; that in future no one should be entitled to assistance from the public stores who had not two acres well planted with corn or peas for every person in his family; and that slothful and loitering persons should be put in charge of the industrious planters for the purpose of working for their own maintenance and the benefit of the community.

It will serve, says Rivers, to exhibit the condition and progress of the colony during West's first administration to notice the legislative measures taken by him with the Grand Council.

[1] *Hist. Sketches of So. Ca.*, 106.

October, 1671. The regulation of the secretary fees; the rates and "scantings" of merchantable pipe staves, requiring the appointment by Council of one or more "viewers" to examine all pipe staves when "any difference should happen upon payment or exchange between party and party in the province of Carolina," and fees allowed for the performance of such duties; the modelling of the proceedings of Council in the determining of differences between party and party.

December, 1671. Acts relating to masters trading with servants and servants purloining their masters' goods; prescribing how long servants coming from England were to serve, and how long servants coming from Barbadoes were likewise to serve from their respective arrivals; that none may retail any drink without license; for the speedy payment of the Lords Proprietors' debts; and prescribing "at what rates artificers and laborers shall work therein," *i.e.* the province.

This last is the first act of Parliament we find to be ratified by the Proprietors in England.[1] No courts were yet established, nor were there any lawyers in the colony, but litigation had already begun, and justice was roughly administered by the Grand Council. Each member of this body was required to swear that as a councillor he would assist the Governor to the best of his skill and ability; that he would do equal justice to the rich and to the poor; that he would "not give or be of councill for favor or affection in a difference or quarrell" before the Council, but in all things demean himself as equity and justice required, observing the rules and directions of the Lords Proprietors and the laws of England and of the province; and that he would not communicate the secrets or transactions of the Governor and Council without authority.[2]

[1] *Hist. Sketches of So. Ca.* (Rivers), 106, 107. [2] *Ibid.*, Appendix, 370.

The first case of litigation in the colony of which we have a record was that upon the petition of John Norton and Originall Jackson against Mr. Maurice Mathews, Mr. Thomas Gray, and Mr. William Owen. On August 28, 1671, it was ordered that the petitioners should appear before the Governor and Council upon Saturday, September 9, peremptorily to prosecute the complaint against the defendants. When that day came, upon hearing the petition, both parties having referred themselves to the determination of the Governor and Council, it was decided that the said John Norton and Originall Jackson should have sixteen pieces of cedar timber desired and one piece of cedar timber more claimed by the defendants. The Governor and Council heard another case this day and decided that Henry Hughes should pay one bushel of corn to Robert Donne for his labor and pains on the plantation of the said Henry Hughes. Having settled these cases, the Council took up the address of two servants of Mr. John Manerich (*Maverick?*), and considering how industrious and useful these servants had been to the colony, for their encouragement ordered that each of them should have ten acres of land near the town. In November Mr. Anthony Churne has a complaint against the now notorious Mr. William Owen, but the difference is referred by the Grand Council to the arbitration of Mr. Edward Mathews and Mr. John Culpepper. Mr. Henry Hughes is also again in court; this time with a serious complaint against Thomas Screman, gentleman, "for that the said Thomas Screman upon the —— of October 1671 at Charles Town did feloniously take and carry away from the said Henry Hughes, one Turkey Cock of the price of tenn pence of lawful money contrary to the peace of our sovereign Lord the King," etc. It is to be observed that in this the first indictment in the Pala-

tine province of Carolina the offence is laid as *contra pacem domini regis*, and not against the peace of the Palatine, as might have been under such a government.[1] The Grand Council found gentleman Screman guilty, and without jury adjudged him to be stript naked to the waist and to receive nine lashes by a whip, to be administered by the hand of Joseph Oldys, "who is adjudged by the Grand Council," the sentence proceeded, "to be stript naked to his waist to perform the same for that the said Joseph Oldys knowing of the felonious act aided said Screman and endeavored to conceal the offence." But the Council did not stay its hand here. It turned out in the evidence that Robert Donne, who had come out as a servant to Stephen Bull, but who had been one of those elected as a member of the Council at Port Royal, and to whom Henry Hughes had two months before been required to pay a bushel of corn for services rendered and now a Captain Lieutenant, had nevertheless been "comforting aiding and assisting the said Screman to commit the said fact"; whereupon the Grand Council ordered him to appear on the —— of December at the head of the company whereof he was Captain Lieutenant, with his sword on, and there to have his sword taken from him by the Marshal, and to be cashiered from his command. Dennis Mahown, servant to Mr. John Cole, for having twice run away from his master, attempting to escape to the Spaniards, was ordered to receive thirty-nine lashes upon his naked back. Captain Thomas Gray makes complaint against Sir John Yeamans, Baronet, "for felling and carrying away severall quantityes from a certaine parcell of land neare the Towne belonging to him the said Capt. Gray. It is also ordered by the Grand Councill aforesaid that an injunction be issued out under the Governor's

[1] Blackstone's *Com.*, vol. I, 117.

hand," etc.[1] Thus were equity and law, civil and criminal proceedings, promiscuously administered and perhaps with as much substantial justice as could have been by a regularly organized court.

It had been rumored, even before Sayle's death, that Sir John Yeamans would be appointed Governor by the Lords Proprietors, and the report was received with great disfavor. The day before the Governor's death West writes to Lord Ashley that he lies in a very weak condition, and past all hope of recovery. He hopes that an honest and able Governor may speedily be sent over — one that desires to serve God above all worldly interest. "If Sir John Yeamans comes amongst them again, it is to be feared a hopeful settlement will soon be elapsed."[2] The Council wrote on the 4th, announcing Sayle's death and informing the Proprietors of their choice of Joseph West to be Governor until they learn their Lordships' pleasure, and add that it had been hinted that their Honors had designed to commissionate Sir John Yeamans again as Governor; they had good reason to believe the contrary, "for it doth breed a very great dissatisfaction to the people."[3]

Sir John, having abandoned the colony at Cape Fear, and having again abandoned the colony destined for Port Royal and left it at Bermuda, had now come to Carolina and was at present on the Ashley, felling timber. He had brought with him from Barbadoes his negro slaves, — the first introduced into Carolina, — and had built a house in the town. We shall soon see how his presence affected the condition of the colony: for the present the extracts we have given from the records of the Grand Council enables us to gauge somewhat the material and social condition of the colony at this time.

[1] *Hist. Sketches of So. Ca.* (Rivers'), Appendix, 371, 377.

[2] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 428.

[3] *Ibid.*, 433.

CHAPTER VII

1671–74

It was the observation of a great political philosopher that so deeply seated is the tendency to conflict between the different interests or portions of a community, that parties would be formed, even though it would be possible to find a community where the people were all of the same pursuits, placed in the same condition of life, and in every respect so situated as to be without inequality of condition or diversity of interest.[1] The truth of this was singularly illustrated in the planting of Carolina. It might have been expected, observes another writer, that these adventurers, who were all embarked on the same design, would be animated by one spirit and zealous to maintain harmony and peace among themselves, for they had all the same hardships to encounter and the same enemies to fear; yet the reverse took place.[2] But while there doubtless existed the strongest motives to unity and harmony among these pioneers in the province, — motives of interest and of apprehension of danger which pressed on all alike, — unfortunately there was added to the natural tendency to the formation of parties in all communities, the irresistible influence of the extraordinary forms of government under which they had embarked.

Not only were the Governor and Council sworn to the

[1] *A Disquisition on Government*, Calhoun's works, vol. I, 17.

[2] Hewatt, vol. I, 75.

observance of the instructions of the Lords Proprietors and to the enforcement of the Fundamental Constitutions, as far as practicable, but these Constitutions, as the unalterable form and rule of government, had been engrossed on parchment and after having been signed and sealed by the Governor, were required to be subscribed by every person before he was admitted to take up lands in the province.[1] These instructions to the Governor and Council, as well as the Fundamental Constitutions so solemnly adopted, upon the test of actual experiment were found to be utterly impracticable in application. Here in the very beginning of the colony was there an artificial as well as natural foundation of two parties. What more certain cause of difference could there be than a written constitution incapable of enforcement? Poor old Governor Sayle, weak in mind as well as body, accustomed only to the command of a ship under instructions from his employers, finds himself confronted by the first "strict constructionists" of Carolina, pointing out to him the inconsistencies and absurdities of his orders. Sayle succumbed to the burden, physical and mental, but the questions brought over from Whitehall remained.

Two parties had already been formed. The Council — the government party — finding their instructions impracticable, and yet with the responsibility of the government upon them, for the present, at least, more concerned for the immediate safety and welfare of the colonists than for the maintenance of the wild schemes of the Proprietors, were inclined to stretch their powers.[2] The Owen and Scrivener party on the other hand, from whatever motives actuated, were endeavoring to hold the Governor and Council to a strict compliance with the terms

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 418.
[2] *Ibid.*, 105.

of the parchment they had been required to subscribe. These divisions had already arisen among the colonists from England. There was another element in the composition of the colony now asserting itself, of which the Governor was very jealous, *i.e.* the Barbadian immigrants, bringing with them as they did colonial experience, habits, and customs, which had grown out of, and were more practically adapted to, the condition of colonial society — rather than the fine-spun theories and grand governmental structures of a philosopher and doctrinaire. The immigrants from England were all strangers to the business of settling plantations in the new country. The Colletons, Sir John Yeamans, Captain Henry Braine, Dr. Henry Woodward, Captains Godfrey and Gray, old colonists, looked down upon the new-comers to America as novices in colonial life and government, and were dissatisfied with their management of the colony. It was by the Governor and the Council's "ill contriving," they said, "that neither Mr. Rivers nor the rest had been brought away from" St. Augustine.[1] Braine had written before Sayle's death that he would pawn his life that Sayle "is one of the unfittest men in the world for the place," and "his being Governor keeps our settlement very chargeable to their Lordships. But though the Governor is crazy yet if there were a wise Council, or three or four men of reason, *planters*, who knew what did belong to settle such a country, it would be to the good of the country and their Lordships' interests."

We do not know exactly when Sir John Yeamans arrived in Carolina. On the 15th of November, 1670, he writes from Barbadoes to the Lords Proprietors, sending "12 cedar planks as the first fruits of that glorious province," *i.e.* Carolina. He was still there in the early part

[1] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 343, 345.

of the year 1671, superintending the transportation of the immigrants he had secured. And Lord Ashley addressed him there in April, thanking him "for the first fruits of their plantation at Ashley from his hands."[1] As late as May the Proprietors instructed Captain Halsted if he traded at Barbadoes to consult Yeamans there.[2] It appears, however, from a letter of Governor West to Lord Ashley that he had arrived in the colony, at the latest, early in July, and had expected to have been at once recognized as Governor by reason of his being a Landgrave. West writes that within two or three days of his arrival Sir John retired to his country house disgusted "that the people did not incline to salute him Governor." He says that as more people had arrived, on the 8th of July, he, West, had summoned all the freemen and requested them to elect twenty persons to be of the Parliament, which was done in three days; that Sir John was chosen Speaker, but that a dispute arose about choosing a clerk, and whether West was made Governor according to the Lords Proprietors' directions. Sir John also made the point, he said, that there must be three deputies besides the Governor, and that it would be in vain for them to proceed unless West would surrender his power as Governor and make the third deputy. It will be remembered that the five original deputies were West, Scrivener, Bull, Bowman, and O'Sullivan. Bowman had not come out, and the Council had suspended Scrivener, so that to comply with the Proprietors' instructions requiring at least three deputies to constitute a quorum, West must be counted as well a deputy as Governor. West would not adopt Sir John's view, but dissolved the Parliament; Sir John and his party went away much dissatis-

[1] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 492.
[2] *Ibid.*, 516.

fied. West writes that Yeamans's conduct was much resented by the people, who began to murmur that "Sir John intended to make this a Cape Fear settlement." [1]

Five days after, West summoned the Parliament again to elect five councillors; when Sir John, says West, preached the doctrine that in all elections those who will stand at the greatest distance from the Governor should be chosen.[2] We have the record of this Parliament, the first held in the province. It was held on the 25th of August, 1671, at Charles Town, upon Ashley River, and the five persons chosen to represent the people were Mr. Thomas Gray, Mr. Maurice Mathews, Lieutenant Henry Hughes, Mr. Christopher Portman, and Mr. Ralph Marshall. These were presented to the Governor and the Lords Proprietors' deputies as members of the Grand Council for the people. At a meeting of the Governor and Council on the 28th, there were sitting and present the Governor, Sir John Yeamans, Captain John Godfrey, Mr. William Owen, Mr. Thomas Gray, Mr. John Foster, Mr. Maurice Mathews, Mr. Henry Hughes, and Mr. Ralph Marshall.[3] The Barbadians had already acquired position. Sir John Yeamans appears as deputy for Lord Berkeley, John Godfrey for Earl Craven, and Thomas Gray represents the people in the Council. John Coming, Halsted's mate, writes to Sir John Colleton that the Barbadians endeavor to rule all.[4] They had joined Owen, Mathews, and Sullivan against Governor West.[5] Lord Ashley was the recipient of complaints from all parties. West, Bull, Braine, Godfrey, and Dalton all complain of O'Sul-

[1] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 612.

[2] *Ibid.*

[3] Dalcho's *Ch. Hist.*, 11.

[4] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 277, 604.

[5] *Ibid.*, 279.

livan as incompetent as a Surveyor; some of them object to his conduct.[1] Yeamans charges that West is proud and peevish, and will not call a Parliament for fear his election or actions should be questioned.[2] Halsted says that West is a person faithful and stout, but no good Governor; that Yeamans is disaffected and too selfish.[3] Gray accuses West of turning Scrivener and Mathews out of the Council, and declaring he cared not what became of the government. Lord Ashley replies to them all, addressing each as his "very affectionate friend." John Locke's connection with Carolina was not only as the author of the Fundamental Constitutions, but it is well known that he took a deep interest in the settling of the colony. Living at Exeter House with Lord Ashley as his secretary, he continued to attend to its affairs, and took great part in its management during Shaftesbury's rule. Many of the letters in the letter book of the Shaftesbury collection are in his handwriting, and it may be inferred that these of Lord Ashley were all written by him.[4]

The Fundamental Constitutions provided that the eldest of the Lords Proprietors who should be personally present in Carolina should, of course, be the Palatine's deputy; and if no Proprietor be present, then the eldest of the Landgraves. Sir John Yeamans now asserted his right under this provision. At a meeting of the Grand Council on the 14th of December he claimed that as he was a Landgrave — and the only Landgrave present. — he was therefore Vice Palatine, and consequently Governor of the province;[5] it does not appear, however, that he could get

[1] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 259, 278, 329, 472, 736.

[2] *Ibid.*, 278, 664.

[3] *Ibid.*, 278.

[4] *Ibid.*, Preface, xxi.

[5] *Ibid.*, 281.

even the support of the Barbadians in the Council for the claim, which was certainly not without foundation. On the contrary, the Council "resolved and advised (*nemine contra dicenti*) that it is not safe or warrantable to remove the government as it is at present, until a signal nomination from the Palatine or further orders or directions be received from the Lords Proprietors." [1]

Yeamans had in fact, however, already been commissioned as Governor. His commission is dated August 21, 1671; but it was not sent until September 18, when Lord Ashley writes he is glad to know that Sir John is in Carolina, and shall expect good success to their new settlement when it shall be countenanced and conducted by so judicious and worthy a person. He has, therefore, sent him a commission, and relies upon his being firm and industrious in settling the government.[2] To Mr. West, "his very affectionate friend," he writes December 16, explaining that it was through no personal dislike or disrespect to him that Sir John Yeamans was made Governor, but the nature of the government, which required that a Landgrave should be preferred to any commoner.[3] As a reward for West's services, the Proprietors created him a Cacique, made him Registrar of Writings, and required that not only the titles of the Proprietors, but that all deeds amongst the colonists, should be recorded, as provided by the Fundamental Constitutions; no deed to be good without registry.[4]

To another State has been given the credit for first devising a system of recording deeds and mortgages.[5]

[1] *Hist. Sketches* (Rivers), 108; Appendix, 377.

[2] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 606, 630.

[3] *Ibid.*, 695.

[4] *Ibid.*, 721, 865, 870.

[5] Massachusetts. *The Puritan in England, Scotland, and America* (Campbell), vol. I, 75 *et seq.* The recording of ordinary conveyances

We here see the registry system was adopted in Carolina with the very inception of its settlement. The truth is that from the very necessities of the occasion a registration of the surveys and grants of land in the new country was indispensable. The Domesday Book of William the Conqueror was the registration of the surveys and grants of the lands of England made by him, and to that ancient record must the title of all lands be traced. Once the redistribution of the lands in England was made and recorded, the metes and bounds were preserved by the people who were then settled upon them, and when any questions arose as to their location, they were settled by the "perambulation" or "viewing" by the parishioners or neighbors. The boundaries in England were thus perpetually preserved by custom and tradition; but in settling a new country, especially one cut up by rivers and swamps, the survey and map alone could locate and de-

began at an early period in Virginia. In October, 1626, the rule was laid down by the General Court that the documents in all sales of land in Virginia should be brought to Jamestown and enrolled in that court in the space of twelve months and a day following the date of each. There are many records of conveyances between private parties prior to 1630. *Economic Hist. of Virginia in the Seventeenth Century* (Bruce), 1896, vol. I, 570. There is nothing new in the American idea of registration. Even before the conquest in England, publicity of transfer was secured by a system of record in the shire or church book. After the conquest, the publicity continued for a time in Domesday Book and for some purposes by the Statute of Enrolments, 27 Henry VIII, c. 16. A registry was established for the Bedford Level in the same year that the first charter of Carolina to the Proprietors was granted, 1663. There were frequent efforts to establish a general registration law in England. Lord Keeper Guilford warmly advocated a registration system, but it was opposed by Lord Chief Justice Hale. North's *Lives of the Norths*, vol. I, 224. There was, however, a great prejudice in England against the system. Blackstone observed that however plausible such provisions might appear, it was doubted by very competent judges whether more disputes were not caused in those counties in which the system prevailed, by inattention and omissions of parties, than had been prevented. 2 *Com.*, c. 20.

scribe the grant, which was defined merely by imaginary lines. There could be no such thing as the actual delivery of possession of lands occupied only by Indians and wild beasts: hence again it became necessary to record not only the original surveys, but all transfers of the rights granted under them. The office of Surveyor General was also therefore of great consequence, especially under the Fundamental Constitutions, which required the whole province to be surveyed and laid out in seigniories, baronies, and colonies. Captain Florence O'Sullivan was the first Surveyor General, but the complaints against him were numerous. He was no surveyor, it was said, and was charged with ignorance and incompetence, with promising much and performing nothing.[1] So with the commission of Governor to Sir John Yeamans, the Lords Proprietors sent out one as Surveyor General to John Culpepper, who had come out with him from Barbadoes.[2] These commissions were issued in December, 1671,[3] and Culpepper appears to have at once entered upon his duty; for while West was still Governor, Culpepper made a rough draught or sketch of the settlement of Charles Town for the Proprietors, giving the location of the tracts of land and town lots taken up by the colonists. In this plat it is to be observed that he marks a certain tract of 300 acres as "Land reserved by Governor & Counsell to be disposed of at their pleasure, I suppose for a minister or governor."

On April 19, 1672, Sir John Yeamans was proclaimed at Charles Town and a proclamation was also immediately issued to dissolve "all parliament and parliamentary con-

[1] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 184, 278, 329, 621, 736.

[2] *Ibid.*, 688.

[3] *Coll. Hist. Soc. of So. Ca.*, vol. I, 98.

nections heretofore had or made in the province," and all the freemen in the colony were summoned to assemble on the 20th to elect a new Parliament. Twenty members were accordingly elected, who chose from their number, as members of the Grand Council, Stephen Bull, Christopher Portman, Richard Conant, Ralph Marshall, and John Robinson. The deputies were Colonel West, Captain Thomas Gray, Captain John Godfrey, Maurice Mathews, and William Owen.[1]

In the letter accompanying his commission, Lord Ashley writes to Governor Yeamans recommending him to make another port town on the Ashley, and giving him directions as to the choice of the ground. The present site was too low, it must needs be unhealthy, and would bring disrepute upon their new settlement. He must lay out the great port town into regular streets, for, be the buildings never so mean and thin at first, yet as the town increases in riches and people the void places will be filled up and the buildings will grow more beautiful. He recommends six score squares of 300 feet each, to be divided one from the other by streets and alleys, and that no man should have above one of those squares to one house. The great street should not be less than 100 or six score feet broad; the lesser streets none less than sixty; alleys eight or ten feet.

The first acts of the new administration were directed to the survey and recording of the lands granted to the settlers with a view to the more definite claims of quit-rent and the introduction of more of the forms of the Fundamental Constitutions. Stricter regulations were ordained against persons leaving the colony. Those who should desire to do so were required to set up their names in the Secretary's office, and if any person objected to their

[1] *Hist. Sketches* (Rivers), 109.

departure he wrote his name within twenty-one days beneath the names so set up, and the reasons for his objection were heard by the Council before a permission for leave could be obtained. On the 27th of June, 1673, the Council ordered an extension of the time of advertisement to six weeks. Such a provision was common to the colonies and was intended to prevent debtors from absconding. So Halsted writes to Shaftesbury that he carries no one from Barbadoes without a ticket.[1] It was resolved by the Council that for the better safety of the settlement the Governor should live in town. This, it is supposed, was induced because Sir John Yeamans had retired to his country house when the people refused to recognize him as Governor upon his arrival.

In pursuance of his instructions, Governor Yeamans proceeded to lay out the site of another town. It so happened that the present site of the city of Charleston, — the point formed by the confluence of the Kiawha, or Ashley, and the Wando, or Cooper, River — had been taken up by Henry Hughes and John Coming. With Hughes the readers of this history are well acquainted. Coming had come out as mate of Henry Braine, captain of the *Carolina*. Halsted describes him as a good sailor but ambitious.[2] Tradition relates that his conduct having been criticised for the loss of a vessel on Charles Town bar, which was charged to have been from cowardice, he crossed the Atlantic in a longboat, which he raised and decked for the purpose to vindicate his courage.[3] He subsequently became a prosperous planter in the province.

[1] *Hist. Sketches of So. Ca.* (Rivers), 110; *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 326. A similar regulation prevailed in Virginia. See Bruce's *Economic Hist. of Va.*, vol. II, 367.

[2] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 326.

[3] MSS. of Elias Ball, now in possession of Mr. Isaac Ball of Charleston.

As early as February 25, 1671–72 Hughes and Coming, the latter with his wife Affra, appeared before the Grand Council and voluntarily surrendered the half of their lands upon Oyster Point, "to be employed in and toward the outlaying of a town and commons of pasture there intended to be erected."[1] On the 20th of July Governor Yeamans by and with the advice of his Council issued the following warrant to John Culpepper: —

"You are forthwith to admeasure and lay out for a town on Oyster point all that point of land then *formerly allotted for the same* adding thereto one hundred and fifty acres of land or so much thereof as you shall find to be proportionable for the said one hundred and fifty acres in the breadth of land *formerly* marked to be laid out for Mr. Henry Hughes Mr. John Coming and Affra his now wife, and James Robinson estimated to be seven hundred acres," etc.

Mr. Hughes's land was retained by the Grand Council; Mr. Coming's was released. The town thus laid off originally extended no farther west than the present Meeting Street, nor farther north than Broad Street, nor south than Water Street. The land to the south of the town obtained the name of Coming's Point and White Point, no doubt from the whiteness of the oyster shells upon it. It was not, however, as yet intended to abandon the old town on the Ashley; for the settlers there were then engaged in building a fort which was finished in May, 1672, and in June an act was passed for the uniform rebuilding of the town. In accordance with this act, the old town was laid out anew and was divided into sixty-two lots. Those who owned lots gave them up and a redistribution was made on the 22d of July.[2]

[1] Dalcho's *Ch. Hist.*, 15.

[2] The following are the names of the persons to whom the lots were assigned and the numbers given them. The list is useful as giving the names of the principal people then in the colony: Thomas Ingram, No. 58; Samuel West, 31; William Owen, 32, 33; Captain Henry Braine, 30;

Colonel West, the former Governor, besides being register of writings, was superintendent of the plantation and stores of the Proprietors, and thus especially charged with the care of their individual interests. In June, 1672, he procured an order from the Council that twenty persons from the debtors to the Proprietors should furnish servants to cut and prepare a cargo of lumber for the *Blessing* at its next arrival. Governor Yeamans, on the other hand, was entering upon plans which demanded an increased expenditure of the private resources of the Proprietors. The colony was placed in a state of security against invasion, cannon were mounted at Stono Creek, and a "great gun" was fired at Charles Town on the approach of any vessel. The inhabitants were armed and six companies were enrolled under Lieutenant Colonel Godfrey. Surely these were all legitimate and proper expenses to be borne by the owners of a large part of the great new Continent, — but the Proprietors, in their niggardly conduct, bitterly complained that instead of

Lieutenant Henry Hughes, 3; John Coming, 29; Captain Florence O'Sullivan, 5, 6, 26, 27; John Williamson, 7; Ralph Marshall, 8; Captain Stephen Bull, 25, 24; Captain Joseph Bayley, 9; Sir John Yeamans, 22; Richard Deyos, 19; James Jours, 14; Thomas Turpin, 33; Priscilla Burke, 28; Major Thomas Gray, 10; John Foster, 11; Richard Batin, 13; Henry Wood, 15; George Beadon, 40, 20; Ensign Hugh Carteret, 18; Captain George Thomas, bought of William Kennis, 16, 17; Captain Nathaniel Sayle, 59, 60; Thomas Hurt, for his wife, 61; the Lords Proprietors, 50, 51, 52, 53, 62; Captain Maurice Mathews, 37, 54; Michael Smith, 38; Thomas Thompson, 55; Captain Gyles Hall, 12; Thomas and James Smith, 41, 57; Richard Cole, 42; Joseph Dalton, 44; John Pinkerd, 36; Joseph Pendarvis, 45; John Maverick, 43; Philip Comerton, number not designated, but either 21, 39, 48, 49, which are not stated to have been delivered; Christopher Portman, 4; Ensign Henry Prettye, 56; Timothy Biggs, 34; Charles Miller, 46; John Culpepper, 35; Captain John Robinson, 47; Ensign Boone, 2; and Edward Mathews, 1. See *Fragment of Journals in Grant Book*, 1672-94, Sec. of State's office, Columbia; Daleho's *Ch. Hist.*, 17, 18; *Hist. Sketches of So. Ca.* (Rivers), 128.

being repaid what had already been advanced by them, a debt of several thousand pounds had been incurred before the end of 1673 and that they were still solicited for further aid and a stock of cattle from England. A more serious charge against Sir John was that, while the settlers could scarcely raise sufficient provisions for their own consumption, he was buying up the produce of the colony and exporting it at great gain to the Island of Barbadoes.

The Proprietors had scarcely commissioned Sir John before letters from Carolina arrived, telling how he had claimed the government under the Fundamental Constitutions without waiting their appointment, and of his great unpopularity. The Earl of Shaftesbury, to which dignity Lord Ashley had just been raised (April 23, 1672), upon the receipt of these complaints sends a letter, no doubt written by Locke, "a masterpiece of composition" as it has been said,[1] in which he gently remonstrates with "his very affectionate friend Sir John" and advises him "not to make use of the government put into his hands to revenge himself on any who had spoken their apprehensions with that freedom which must be allowed in a country wherein men are not designed to be oppressed, and where they may justly expect equal justice and protection." He had too great a value for Sir John's condition and ability, he said, not to desire the continuance of a right understanding between them, and therefore must take the liberty to deal freely with him in a matter wherein they were both concerned, and to tell him that he could not avoid thinking that the suspicions of those who had expressed some fear of his management of the government had some ground. His too forward conduct in grasping at the government when he first arrived in Carolina, and his

[1] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, Preface, xxi.

endeavors since to diminish the authority of certain deputies who had power to represent the Proprietors, had even at that distance given some umbrage.[1]

While the Proprietors, on the one hand, were, stingily, quarrelling with every expenditure in the colony, on the other, their minds were filled with schemes of grandeur and magnificence in the government they were attempting to settle in the wilds of America. "A debt of several thousand pounds" appalled them, even though it was to be incurred in laying out and settling hundreds of thousands of acres in seigniories, baronies, and manors for Landgraves and Caciques. Instead of providing the means for colonizing their immense domain even in part, their time was spent in drawing on paper grand plans of imaginary and impossible governments, and sending them out to be put in operation among a few hundred adventurers who had hardly the means of living. Their legislative activity was surely extraordinary.

It will be remembered that Locke's original draft of the Fundamental Constitutions of March, 1670, had been modified in some particulars, and, thus modified, had been solemnly adopted on the 20th of July, 1670. To these latter, which are known as the *first* set, and which had been declaimed "sacred and unalterable," the colonists had been required to subscribe and swear submission. While they had never been adopted by a Parliament which alone could give them authority under the charter, they had thus been forced upon the people individually. With a determination which seems purposed merely to irritate the people, the Proprietors, well aware that this condition of the province would not, at least yet, admit of the enforcement of either set, now sent out a printed copy of Locke's

[1] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 861; *Colonial Records of No. Ca.*, vol. I, 212.

original draft, but to which, it is said, they added the clause that appears as Article 96, in the set to be found in the first volume of the Statutes of South Carolina, directing the building of churches and the public maintenance of divines of the Church of England, which it declared to be the only true and orthodox religion.[1] The Church of England, as we have before explained, was already the established church under the charter; but, not content with the fact, the seven Proprietors who were adherents of Episcopacy — Shaftesbury having no predilection upon the subject[2] — now required a declaration that the Church of England was the only *true and orthodox religion*. Locke's original draft, with this inconsistent provision imposed upon it, — if so be that Locke did not draw it himself, — now becoming known as the Second Set, was adopted by the Proprietors on the 26th of June, 1672; they do not appear, however, to have been received by the Governor in Carolina until the 8th of February, 1673–74. The Parliament refused to recognize them.

That the Proprietors were well aware that no substantial purpose could be effected by this attempt to force these Constitutions upon the colony at this time is manifest, for with them they also sent two other remarkable legislative productions. These were termed "Temporary Laws" and "Agrarian Laws."

"Since the paucity of nobility," they said, "will not permit the Fundamental Constitutions presently to be put in practice, it is necessary for the supply of that defect

[1] *Hist. Sketches of So. Ca.* (Rivers), 117, 118; Appendix, 420.

[2] Bishop Burnet says of Shaftesbury: "He was to religion a Deist at best. He had the dotage of Astrology about him to a high degree. He told me that a Dutch doctor had from the stars foretold him the whole series of his life. But that which was before him when he told me this proved false, if he told me true. For he said he was yet to be a greater man than he had been." — *History of his Own Times*, vol. I, 96.

that some *temporary laws* should in the meantime be made for the better ordering of affairs till by a sufficient number of inhabitants of all degrees the government of Carolina can be administered according to the form established in the Fundamental Constitutions, we the Lords Proprietors have agreed to the following."

The first, second, and third articles of these Temporary Laws repeat in short form the provisions in regard to the nomination of deputies by the Palatines and other Proprietors: admit the nobility as members of the Grand Council; appoint the chief officers in the province with the same high-sounding titles; declare the powers of the Council, the quorum of which should be the Governor and six councillors, whereof three at least shall be deputies of Proprietors. 4. In case of the death or departure of a deputy, his place should be supplied by the eldest of the councillors chosen by Parliament until another deputy be appointed. 5. Parliament to consist of the Governor, deputies, nobility, and twenty delegates of the freeholders to be assembled and to make laws agreeably to provisions of the Fundamental Constitutions. 6. All acts of such Parliament to cease at the end of the first Parliament convened after the Constitution should be put in force. 7. As much of the Constitutions as practicable to be the rule of proceeding.[1]

The Agrarian Laws, which are twenty-three in number, were anything but such as would be inferred from their title. They were concerned entirely with the interests of the Proprietors and nobility, and the proportionate division of their landed estates. The distribution of the people's share is alluded to only incidentally. The preamble solemnly announces a principle most inconsistent with the provisions which follow. "Since the whole foundation

[1] *Hist. Sketches of So. Ca.* (Rivers), 119; Appendix, 354.

of the government," it declares, "is settled upon right and equal distribution of land and the orderly taking up of it of great moment to the welfare of the province," it goes on to provide that one-fifth of all shall be secured to the Proprietors, one-fifth to the nobility, and the rest to the people.[1]

There was no authority for such "Temporary Laws" under the charter. The provisions of that instrument allowed for such only upon an emergency, when an assembly of the freeholders could not be convened. It did not authorize such regulations of indefinite continuance without the assent of the people. The Agrarian Laws did not purport to be of merely temporary character; on the contrary, they provided for the permanent distribution of lands. They were likewise not in accordance with the terms of the charter, and so were not constitutionally of force.

Hewatt mentions that during the government of Sir John Yeamans a civil disturbance broke out which threatened the ruin of the settlement; that it had been fomented by Culpepper, with the connivance of O'Sullivan; and that during these commotions the colonists were anticipating an invasion from the Spaniards of St. Augustine. It is said that O'Sullivan, who had been put in charge of the cannon on the island which now bears his name, in order to alarm the town in case of the appearance off the bar of any of the Spanish vessels, being ready to perish with hunger, deserted his charge and took part with Culpepper in the disturbance at Charles Town, where he was arrested by the Marshal for sedition and required to give security for his good conduct.[2] Chalmers, in his account of Cul-

[1] *Hist. Sketches of So. Ca.* (Rivers), 119; Appendix, 355.

[2] Hewatt, *Hist. of So. Ca.*, vol. I, 62; *Hist. Sketches of So. Ca.* (Rivers), 112, note.

pepper's insurrection in North Carolina in 1677, speaks of him as one who had in 1671 been appointed Surveyor General of Carolina, and who had raised commotions on the Ashley River.[1] We can find no contemporary allusions to such events. Braine, in a letter to Lord Ashley, November, 1670, accuses O'Sullivan of rash and base dealings and abuse of the Governor, Council, and country,[2] but this was during the administration of West, not during that of Yeamans.

The apprehension of an attack by the Spaniards at this time was not, however, without some foundation. The facilities for escape of servants and slaves to Florida, and their detention and protection there by the Spaniards, would have furnished a continual cause of irritation between the two colonies had none other existed. The first purpose of slaves deserting their masters in Carolina was to reach St. Augustine. In this they were sometimes frustrated by Indians sent out in pursuit, who overtook and captured them. Brian Fitzpatrick, described as "a noted villain," who had before been punished by the Grand Council, now deserted to the Spaniards and informed them of the distressed condition of the colony. An attacking party was immediately dispatched from the Spanish garrison and took post at St. Helena Island. The hostile and warlike Indian tribe of Westoes, doubtless under the same influence, also began to exhibit a troublesome disposition and were said to be lurking to the southward of Charles Town with hostile purpose.

At a meeting of the Grand Council on July 2, 1672, it was promptly resolved to dispatch a party of thirty men against the Westoes, and on the 9th the inhabitants were organized into a military body. John Godfrey was

[1] Chalmers, *Political Annals*, Carroll's *Coll.*, vol. II, 304.

[2] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 329.

appointed Lieutenant Colonel; Thomas Gray, Major, Captains, Maurice Mathews, John Robinson, Richard Conant, the seditious Florence O'Sullivan, and Robert Donne, who but six months before had been cashiered for abetting the stealing of a turkey. Donne, we must presume, was a good soldier, notwithstanding his foraging habits. On the approach of Colonel Godfrey with fifty volunteers, the Spaniards retreated to St. Augustine, and the Westoes were unwilling to risk an engagement while the intervening small tribes continued friendly to the English.[1]

Sir John Yeamans was about to be removed. The necessities of the people at the close of his administration were of so pressing a nature, it is said, as to occasion great disquietude, but these were relieved by the seasonable arrival of the Proprietor's ship. It is worthy of remark, however, observes Rivers, that there appears never to have been so great a scarcity of food as to endanger the lives of the people. There was no "starving time" in Carolina, as there had been in Virginia during its first settlement. There were failures at first in the attempt to raise such grains and fruits as were not best adapted to the soil and climate; but fish and oysters, an abundance of game in the woods, the fertility of the land in producing Indian corn and peas, were sufficient to insure the settlement from any fear of starvation. Even in the times of greatest complaint in 1673, provisions were exported to Barbadoes. That Governor Yeamans engaged too extensively in these exports was perhaps the chief cause of the clamors and discontents of the people. To these was added the same causes of dissatisfaction that had existed at Chowan and Cape Fear. The Proprietors in their parsimony were unwilling to send any more supplies. They

[1] *Hist. Sketches of So. Ca.* (Rivers), 112, 125; Appendix, 382.

turned again to West, who, if less ambitious than Sir John, was more economical in his administration. But West was still only a Cacique. So, on May 18, 1674, the Proprietors send a patent appointing him a Landgrave and a commission as Governor, and declare that he has all along, by his care and fidelity and prudence in the management of their affairs, recommended himself to them "as the fittest man for their trust." They had made West give way to Yeamans; they now proceed to arraign Yeamans's conduct to West. They cannot forbear plainly to say, they wrote, though they had a great regard for Sir John Yeamans, that when Mr. West bore the management of their affairs they had had some encouragement to send supplies, but immediately as Sir John had assumed the government the face of things had been altered. Their first reports from him were proposals for increasing their Lordships' charges, and in his last dispatches he had sent a scheme which would require disbursements of several thousand pounds. He had insinuated that their Lordships had dealt ill with the colonists because they would not continue to feed and clothe them without promise of returns. They had put a stop to the supplies, for they thought it time to give over a charge which was like to have no end; that the country was not worth having at that rate. It must be a bad soil, indeed, that would not maintain industrious people. They would not be so silly as to maintain the idle. But it was not the fault of the soil. Indeed, some of the Proprietors were so well assured of this, that at their own individual charges they were going to settle a plantation in the Edisto without expecting assistance of the Proprietors generally. They were well satisfied that it was Sir John Yeamans's management that had brought things to this pass. His management had been to make this province

subservient to Barbadoes. They referred to the frequent mention of wanting a stock of cattle, and declared the design of the Lords Proprietors was to have planters in Carolina, not graziers. If their intention was to stock the province, their Lordships could do better by their own bailiffs and servants, who would be more obedient to their orders.[1]

Sir John had previously retired to Barbadoes in feeble health, where he died in August, 1674, possessed of considerable wealth, but having lost much of the reputation which he enjoyed when he entered upon the government of the colony. Halsted, in a letter to the Proprietors, does not hesitate to charge Sir John and Captain Gray with complicity in the death of an Indian killed by the "noted villain" Fitzpatrick.[2] Nor was this the first charge of the kind which had been made against him. The Assembly at Barbadoes had accused him to Lord Willoughby, the Governor, in 1667, of conspiring against the life of a man "for noe other reason but that he had a mind to the other gentlemans wife."[3] The truth is, that the glimpses we get through the records of the time, of the men who formed the first settlers of the colony on the Ashley, do not inspire us with great regard for their characters generally, or lead us to believe that they were others than such as might have been expected to be found in such an enterprise. They were adventurers whom one cause or another — domestic or political — had induced to seek in the New World fortunes they could not achieve in the Old. There was certainly little material among them for the "nobility" of Landgraves and Caciques under the Fundamental Constitutions, even though we do not

[1] *Calendar State Papers, Colonial* (Sainsbury), London, 1889, 1277.
[2] *Ibid.*, 664.
[3] *Colonial Records of No. Ca.*, vol. I, 177.

accept Archdale's description of them as "the most desperate fortunes" who first "ventured over to break the ice," "being generally the ill livers of the pretended churchmen." [1]

[1] *A Description of Carolina* (Archdale), Carroll's *Coll.*, 100.

CHAPTER VIII

1674–82

Governor West's previous administration had been only temporary in its character, under appointment by Governor Sayle upon his death-bed, with the approbation of the Council, until the pleasure of the Lords Proprietors could be known. They had set him aside and appointed Sir John Yeamans, because, as they said, of Sir John's being a Landgrave. West was now regularly commissioned Governor and entered upon an administration which was to last for eight years, during which the colony was to be settled upon a firm foundation, and by his wise and prudent conduct to enjoy for a short time the peace and order so necessary for its successful growth and prosperity.

The Earl of Shaftesbury had informed West in the letter which announced his appointment as Governor, that so satisfied were some of the Proprietors with the soil and advantages of the country that they intended to settle a plantation on the Edisto at their own individual cost. This they now proceeded to do, and to facilitate them in their new enterprise, the Proprietors, as a body, laid out for these individual proprietors a plantation on both sides of the Edisto, or Ashepoo, River, of which they granted a commission as Governor to Andrew Percival, limiting Governor West's jurisdiction to five miles south of the Ashley, and instructing Gov-

ernor West to afford all countenance, help, and assistance to the plantations on Locke Island, as the settlement was to be called. In one respect, however, they did not make the plantations independent of that on the Ashley. They did not authorize Governor Percival to issue warrants for lands, but retained this power in Governor West's hands, instructing him, however, to affix the seal to all such grants as Percival should send to him. The scheme, which was the first attempt to plant an outpost between the colonists on the Ashley and unfriendly Indians, did not succeed. It was abandoned and Percival was appointed in June, 1675, Register of Berkeley County and other parts adjoining.[1] The plan, it is supposed, originated with the Earl of Shaftesbury,[2] possibly with Locke, in honor of whom it is probable the new government was named. This attempt presents another illustration of the uncertainty and impracticability of the plans of the Proprietors. The scheme of the Fundamental Constitutions was absurdly out of proportion, in its grandeur and elaborateness, even for a single government in a new country; and yet here were their Lordships setting up another government within thirty miles of that on the Ashley, and with the commission to Percival sending also a copy of those extraordinary laws for his guidance and direction. They had now three separate governments in the province of Carolina, for which Landgraves and Caciques, and all the high officers required by the Constitutions, were to be provided. There was the government at Albemarle, that at Ashley, and now this attempt at one on the Edisto; and between that at Albemarle and that at Ashley had been the attempt at Cape Fear.

[1] *Hist. Sketches* (Rivers), 121, Appendix, 387, 388; *Public Records of So. Ca.* (MSS.), vol. I.

[2] *Hist. Sketches* (Rivers), 121.

The Earl of Shaftesbury soon after, at his own expense, engaged Dr. Henry Woodward to enter upon the exploration of the country of the Westoes and Cussatoes. The result of this visit was a treaty of peace and friendship between these nations and the English in Carolina. A comparison of the strength and resources of these Indians and the still feeble colonists induced the Proprietors (as they said) to shield the latter by restricting their intercourse with the tribes westward of Charles Town; but the restraints now put upon the Indian trade was not, says Rivers, free from selfish motives on the part of the Proprietors. They knew that furs and deer-skins, obtained in traffic for trifling articles, formed the principal source of gain to the industrious traders, among whom were the chief men in the colony. If frauds and abuses occurred, a prevention of them would not surely follow the restricting of the trade to Proprietary agents. In April, 1677, Albemarle, Shaftesbury, Clarendon, and Colleton agreed to contribute each £100 to be placed in the hands of Mr. William Saxby, then secretary and treasurer, for carrying on the Indian trade, allowing one-fifth of the clear profit to Dr. Woodward, according to a previous contract between him and the Earl of Shaftesbury. At the same time they issued an "Order and Command" to the "governor council and other inhabitants of our province of Carolina," forbidding any of them, under pain of prosecution and severe punishment, to trade during seven years with these or other Indians living beyond Port Royal, but leaving open to the settlers the trade for a considerable distance on the sea-coast, "and any other way not less than one hundred miles from their plantation which is all they can pretend or expect from us," continue their Lordships, "it being in justice and reason fit that we should not be interrupted by them in our treaties and

transactions with these nations that inhabit these distant countries with whom by our grant and charter from his Majesty we only have authority to treat or to intermeddle."[1]

Again we observe the utter disregard by the Proprietors even of their own favorite and "unalterable" Fundamental Constitutions, when the provisions even of those laws interfered in the least with their interests or views of the moment. By the terms of the Constitutions they had committed to the Grand Council the power "to make peace and war, leagues and treaties with any of the neighboring Indians." Under this authority the Council had acted; they had declared war, made peace, and entered into treaties. It was scarcely to be expected that, situated as the colonists were, with their families exposed to the tomahawk and scalping-knife, they would leave the important matter of their relations with the savages to be governed by the diplomacy of any set of men on the other side of the Atlantic.[2] It is needless to add that they disregarded the instructions and took care of themselves.

To the Earl of Shaftesbury is ascribed the credit of a more sensible measure; a measure which, if adopted, might have allayed, at least to some degree, the hostility of the irritable and warlike natives, and have secured at less cost the peace and safety of the settlers. The Proprietors claimed to be the sole owners of every acre of Carolina under King's grants, and they had expected the colonies to be established by driving the Indians away from the lands over which they and their ancestors had roamed from time immemorial. They were to be dealt with as savages deserved if they resisted the rights con-

[1] *Hist. Sketches of So. Ca.* (Rivers), 122, 123.
[2] *Ibid.*, 123.

ferred by his Majesty King Charles II of England; and it had been forbidden to purchase land from them. Shaftesbury now proposed — and in this we can scarcely doubt the influence of Locke — to revoke this order. This was, of course, little better than resorting to fraud rather than to force. The so-called purchases were made for no adequate consideration from the Proprietors to the Indians. A few glittering trinkets and bright-colored ribbons and cloths, of little value, was the coin in which the Proprietors paid for the most valuable of all property, — land. There is, however, this to be said on the other side of the question; *i.e.* that the Indians themselves were selling what they did not own. They were selling and conveying land tenures, the nature of which they had no conception, and hence to which they had no rights. The chief value of the deeds which the Indians signed was really as a "color of title" against other Europeans.

The first deed of transfer on record was made in March, 1675, to Andrew Percival for the Earl of Shaftesbury and the rest of the Lords Proprietors, "for and in consideration of a valuable piece of cloth, hatchets, beads and other goods and manufactures." The territory ceded was that of "Greater and Lesser Casor lying on the River Kyewaw, the River Stono, and the fresher of the River Edisto." Perhaps to strengthen the deed of conveyance, the signatures were taken of an odd assembly of Indians, there being the marks and *seals* of four Caciques, the marks of eleven war-captains and fourteen "woman captains." In 1682 and subsequently, lands were ceded by the Caciques of Wimbee, Stono, Combahee, Kussah, Edisto, Ashepoo, Witcheaw, and by the Queen and Captain of St. Helena, who generously surrendered (to please the English) their lands in a northwestward direction as far as the "Appalachian Mountains," although they had not

even the claim of occupancy to any great distance from the sea-coast. All the northwest portion of the province was possessed by the populous and powerful Cherokees.[1]

The first accession to the number of original settlers, as we have seen, came from Barbadoes. Immigrants continued to arrive in small parties from England in the Proprietors' ship the *Blessing*, from the West Indies in the *Carolina*, and in Captain Halsted's ship, in their respective voyages. Then had come the Dutch colony from *Nova Belgia* or New York. To induce immigration, the Proprietors had, in 1672, offered liberal concessions to freemen and servants from Ireland, particularly if they would come in sufficient numbers to make up a community and form a town by themselves "wherein they may have the free exercise of their religion according to their own discipline." In June, 1676, a whole colony of 12,000 acres was promised to Mr. John Berkly, Simon Perkins, Anthony Laine, and John Pettitt, upon their landing in Carolina.[2] In March, 1679, René Petit, his Majesty's agent at Rouen, Jacob Grimard of Normandy, Gentleman, and Sir Thomas Dolmans petitioned the King for the transportation of several French Protestant families to Carolina. Their petition was referred to the Committee of Trade and Plantations[3] in the Council at Whitehall, who recommended to his Majesty to give orders for the fitting out of two ships (neither of which may draw twelve feet of water) as may be fit to transport the said

[1] *Hist. Sketches of So. Ca.*, 123–125.

[2] *Ibid.* (Rivers), 120, 121.

[3] The Committee of Trade and Plantations was one appointed by the Privy Council of Great Britain, to whom was referred all matters relating to the American colonies, and who had a general jurisdiction and supervision over them. They were also called the Lords of the Committee of Trade and Plantations. See *Government of the Colony of So. Ca.* (Whitney); *Johns Hopkins Univ. Studies*, 13th Series, 1–11.

families, provided that the said families should give a list of their names with sufficient assurance that they would take sufficient victuals and provisions for themselves for the voyage, and that the said families should come from abroad or had arrived in England for the purpose and design of going to Carolina. Several such families availed themselves of this offer, and on the 17th of December the Lords Proprietors write to the Governor and Council in Carolina recommending them to their care, as, being skilled in the manufacture of certain commodities, they might instruct the English settlers. They directed a grant to René Petit and Jacob Grimard of 4000 acres of land each.[1] One of these vessels was the frigate *Richmond*, which arrived in 1680, bringing out forty-five French refugees. A more considerable number soon followed in the other vessel. In the redistribution of the lots in old Charles Town, Richard Batin, Jacques Jours, and Richard Deyos received town lots. These are assumed to have been French Protestants, but upon what authority is not known. In 1677 grants were made to Jean Balton; in 1678 to Jean Bazant and Richard Gaillard.[2] These were the first Huguenots in Carolina of whom there is record. It was expected that the French colonists would be very serviceable to the province by introducing the manufacture of silk and the culture of the olive and the vine. This expectation was not realized. The eggs of the silkworm hatched at sea and the worms perished for want of food; nor did the other branches of industry sought to be promoted by them succeed.[3]

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 392; *Coll. Hist. Soc. of So. Ca.*, vol. I, 102; *Colonial Records of No. Ca.*, vol. I, 242.

[2] Howe's *Hist. Presbyterian Church*, 73.

[3] *Hist. Sketches of So. Ca.* (Rivers), 173, 174; Howe's *Hist. Presbyterian Church*, 73.

In the list of emigrants from Barbadoes in the year 1679 we find the names of Robert Daniel, Thomas Drayton, John Ladson, and Arthur Middleton[1] — names which have since been interwoven with the history of the State.

The Proprietors wished to build their chief town on some high land on the Ashley or Cooper, if such could be found free from the sickliness of the coast and the sudden inroads of an enemy's ship. But the explorations of Captain Halsted and the search of the committee of the Grand Council failed to find a more eligible situation than Oyster Point, to which the settlers began generally to move in 1679. Some had fixed their abode there as early as 1672. Such representations were made to the Lords Proprietors as caused them to write to Governor West and the Council on the 17th of December, 1679: "We are informed that this Oyster Point is not only a more convenient place to build a town on than that formerly pitched on by the first settlers, but that the people's inclinations turn thither; we let you know that Oyster Point is the place we do appoint for the port town of which you are to take notice and call it Charles Town."[2] It was ordered at the same time that the public offices should be moved thither and the Grand Council summoned to meet there. In the spring of 1680 the removal was made, and during the same year thirty houses were erected. It was called for a while by some persons New Charles Town, to distinguish it from the old town, which now began to be abandoned; from 1682 it was known for a period of one hundred years simply as Charles Town[3] or Charlestown.

The *Richmond*, his Majesty's ship which brought out

[1] *List of Emigrants to America, 1600–1700* (Hottin).

[2] *Hist. Sketches of So. Ca.* (Rivers), 128, 129; *Coll. Hist. Soc. of So. Ca.*, vol. I, 102, 103.

[3] *Ibid.* See note of Rivers giving reason for fixing the time of the removal as of the spring of 1680.

the French Protestants under Petit and Grinard, was also charged with particular instructions to inquire into the state of the country, and T—— A——, Gentleman,[1] a clerk on board of that vessel upon its return in 1682, published a description of the province and of its natural excellences. "The town," he says, "is regularly laid out into large and capacious streets, which to buildings is a great ornament and beauty. In it they have reserved convenient places for a church, Town House and other public structures, an artillery ground for the exercise of their militia, and wharves for the convenience of their trade and shipping."[2] The site reserved for a church is that at the corner of Broad and Meeting streets, where stood the original St. Philip's Church, and now stands St. Michael's. So this spot, set apart at the very inception of the province, has remained until this day consecrated to the service of God, and separated from all unhallowed worldly and common uses. The first church was soon built. It was black cypress upon a brick foundation, and was described as large and stately, surrounded by a neat palisade. It was usually called the English Church, but its distinctive name was St. Philip's.[3] It was probably begun during the last of the administration of Governor West, who was distinguished for his piety as well as for his justice and moderation. The Proprietors, as we have seen, had been repeatedly urged by the colonists to send out a clergyman, and they had agreed to allow Mr. Bond a grant of land and a stipend if he would come. He had not done so, but there was a minister of the Church of England in Charles Town at this time. The Rev. Atkin Williamson was here certainly in 1781, probably in 1680, but it is not known at what time previously he

[1] T—— A——, supposed to be Thomas Ash. Carroll's *Coll.*, vol. I. Preface. [2] Carroll's *Coll.*, vol. II, 82. [3] Dalcho's *Ch. Hist.*, 26.

came into the province.[1] As early as 1671 Governor West had endeavored to restrain the licentiousness naturally arising among a new people living without the public ordinances of religion.[2] In May, 1682, acts were passed for the observance of the Lord's Day, and for the suppression of idleness, drunkenness, and profanity. Besides these efforts for promoting the morality of the people, the close of Governor West's second administration was marked by the wisdom of laws enacted for the organization of the militia of the province, and for making high roads from the new town at Oyster Point through the forests that stretched into the interior.[3]

Samuel Wilson, secretary of the Proprietors, also published an account of Carolina about the same time (1682). He states that since the order of the Proprietors appointing Oyster Point as the new town, about a hundred houses had been built, and more were building daily by the persons of all sorts that come there to inhabit from the more northern English colonies, the Sugar Islands, England, and Ireland. That many industrious servants who had served out their terms with their masters, at whose charge they were transported, had gotten good stocks of cattle and servants of their own, had built houses and exercised their trades. That many that went out as servants were then worth several hundred pounds and lived in a very plentiful condition, and their estates increasing; that land near the town was sold for twenty shillings

[1] Bishop Perry, in his *Hist. of the American Episcopal Church*, vol. I, 372, quotes a letter of Commissary Johnson, written in 1710, in which he states that Mr. Williamson had been in the province twenty-nine years, which would imply his arrival in 1681. But in a deed of Originall Jackson and Meliscent his wife giving a tract of land for another church, dated January 14, 1680–81, Mr. Williamson is mentioned as then in the colony. The inference is that he had arrived at least as early as some time in 1680.

[2] *Hist. Sketches of So. Ca.* (Rivers), 130. [3] *Ibid.*

(*i.e.* about $25 of present currency) per acre, though pillaged of all its valuable timber; cleared land fitted for planting and fenced was let for ten shillings per annum the acre, though twenty miles distant from the town. Six men could in six weeks' time fell, clear, fence in, and fit for planting six acres of land. He states that at this town in November, 1680, there rode at one time sixteen sail of vessels, some of which were upwards of 200 tons and came from divers parts of the King's kingdom to trade there, which great concourse of shipping would undoubtedly in a short time make it a considerable town.[1]

Wilson was the secretary for the Lords Proprietors, and so his account may be regarded somewhat as an advertisement colored to induce immigration, but the clerk on the *Richmond* gave an equally pleasing account of the progress of the colony. "At our being there," he writes, "there was judged in the country a 1000 or 1200 souls, but the great number of families from England, Ireland, Barbadoes Jamaica and the Caribbee Islands which daily transport themselves thither, have more than doubled that number."[2]

These accounts agree as to the healthiness of the country. Wilson states that the inhabitants of Carolina are no more liable to agues than those of England; that those in England who seat themselves near great marshes are subject to such attacks and do suffer as those who do likewise in Carolina; that elsewhere the country is exceedingly healthy; and cites an instance of a family consisting of never less than twelve persons, in which there had been no deaths since their arrival in nine years. Nor, he adds, is there one of the masters of families that went over in the first vessel dead of sickness in Carolina except one, who was seventy and five years of age before he came

[1] Carroll's *Coll.*, vol. II, 23, 24. [2] *Ibid.*, 82.

there.[1] T—— A—— asserts that the Indians prolong their days to the extremity of old age, and that the English hitherto have found no distempers, either epidemical or mortal, but such as have their rise from excess or intemperance. He admits that in July and August they have sometimes touches of agues and fevers, but not violent, of short duration, and never fatal. English children born there are commonly strong and lusty, of sound constitutions, and fresh, ruddy complexions.[2] The whole settlement at this time was upon the rivers and the coast, extending no farther than thirty miles from the town — the region which has since been affected with the deadly, high, bilious, congestive fever. It is clear, therefore, that the country fever, since prevalent in the summer in the low country, was not then known.

Wilson describes the summer as not so hot as in Virginia and the more northern colonies, which he attributes to the sea-breezes which almost constantly arise about eight or nine o'clock within the tropics and blow from the east until about four in the afternoon, and to a north wind which arises a little after, blowing all night, keeping it fresh and cool. Thomas Ash only commits himself to the fact that the summers are not so torrid, hot, and burning as that of their southern, nor the winters so sharp and cold as that of their northern, neighborhood.

The soil was found to be generally very fertile. There were some sandy tracts, but even this land produced good corn. Wheat, rye, barley, oats, and peas thrive exceedingly, and the ground yields in greater abundance than in England; but the chief produce of the field was Indian corn, of which there were two plentiful harvests. Wholesome bread and good biscuits were made of this, and it

[1] Carroll's *Coll.*, vol. I. 26. This allusion is no doubt to Governor Saye, who was, in fact, eighty years of age. [2] *Ibid.*, 62.

was dressed with milk in various ways, furnishing a strong, sound, and nourishing diet. Of the juice of the corn when green, the Spaniards, with chocolate aromatized with spices, made a rare drink of excellent delicacy. The English among the Caribbees roasted the green ear on the coals, and ate it with great pleasure.

The Indians in Carolina, when on a journey, parch the ripe corn, then pound it into a powder, and put it in a leather bag. To use it, they take a little quantity of the powder in the palms of their hands, and mixing it with water, sup it up. With this they will travel several days. It was described, in short, as a grain of general use to man and beast. The Carolinian had already found a way of making with it good, sound beer, but rather strong and heady, and by maceration, when duly fermented, a strong spirit-like brandy. Tobacco was found to grow very well, but the great trouble in the planting and cure of it, and the great quantities which Virginia and other of his Majesty's plantations produced, did not encourage its planting. Tar of the resinous juice of the pine was made in great quantities ; several tons were transported yearly to Barbadoes, Jamaica, and the Caribbee Islands. Indigo had been tried with success, but had been abandoned, for what reason it could not be learned.

The great increase in cattle, it was said, was more to be admired than believed. In 1674 the Proprietors had refused to send out any live-stock, and the country was destitute of cows, hogs, or sheep. In seven years after, there were many thousands in the province. Individual planters had already 700 or 800 head. They were not subject to any disease, and the little winter did not pinch them so as to be perceived. The planters were thus saved the care of providing fodder for them in the winter. Carolina would thus be able to supply the northern colonies

with salted beef cheaper than they themselves could raise; for, considering that all the woods in Carolina offered good pasturage, and the small rent that was paid the Proprietors for land, an ox was raised at almost as little expense in Carolina as a hen is in England. So, too, hogs increased abundantly, and in a manner without any charge or trouble to the planter. Ewes also did well, but required a shepherd to drive them to feed, and to bring them home at night to preserve them from wolves. The colonists had begun to breed horses, which bred well. The colts were finer limbed and headed than their dams or sires, which gave great hopes of an excellent breed. Negroes throve by reason of the mildness of the winter much better than they did in the more northern colonies, and required less clothes, which was a great charge saved.

Living was very cheap in the colony. Indian corn supplied the bread; the rivers abounded with every kind of fish, near the sea with very good oysters, and the woods with hares, squirrels, raccoons, opossums, and deer. An Indian hunter would kill nine fallow deer in a day. All the considerable planters had an Indian hunter, who supplied them with game. For 20 shillings a year, *i.e.* from $20 to $25, one hunter would find a family of thirty persons with as much venison and game as they could well eat. Deer were in such infinite herds that the whole country seemed but one continued park. T—— A—— states, upon the authority of Captain Mathews, that one hunting Indian had yearly killed and brought to his plantation more than 100, sometimes 200, head of deer. Bears were in great numbers. From the fat of these, the Indians made oil which was of great value in making the hair to grow. The Indians had a way of dressing the skins of wild animals rather softer, though not so durable, as that used in England.

The settlers in Carolina were thriving not, as yet, so much as planters as traders. Their trade was principally with Barbadoes and the other West Indies. They exported to England skins and furs, and Indian pelfry and cedar; to Barbadoes, Jamaica, and the Caribbee Islands provisions, pitch, tar, and clapboards, for which they obtained in exchange sugar, rum, molasses, and ginger. Their trade was, unhappily, not restricted to these legitimate articles of commerce. In the Temporary Laws sent out to Sayle it was expressly provided that no Indian, upon any occasion or pretence whatsoever, was to be made a slave or without his own consent be carried out of the country;[1] but this humane provision was disregarded by the Proprietors themselves, and disobeyed by the colonists. It was the Proprietors who first "gave the privilege," to use their own language, of selling Indian captives from Carolina to the West India Islands as the cheapest means of "encouraging the soldiers" of the infant colony.[2] However shocking this may appear to the sentiment of the present age, in judging the conduct of the Proprietors, we must recollect that by the rules of war, at that time, prisoners and captives were regarded as the absolute property of the conquerors, who might take their lives or sell them into bondage, — a rule which was cited and relied upon as international law a hundred years afterwards by the British authorities in Carolina as their justification of the treatment of Americans taken as prisoners of war.[3] The title of the Proprietors rested upon the claims of England to a conquest of this territory,[4] and hence the slavery and exportation

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 353. [2] *Ibid.*, 132.

[3] *Royal Gazette* (No. 103), February 20, 1782, Charlestown, South Carolina.

[4] So says Blackstone. See *ante*, p. 51. But from whom conquered, — from the Spaniards or the Indians? If from the Indians, as we shall have occasion to ask, why did the Proprietors attempt to secure title by purchase from them?

of Indians was a matter merely of expediency, and not of moral wrong under the political tenets of the age. And so it was that now Governor West was to be removed because of the displeasure of the Proprietors at the selling of Indian slaves purchased by the planters from the neighboring Indian tribes. This trade the Proprietors regarded as one of the perquisites of their grant and were very jealous of any interference with it by the colonists. Indian slaves were shipped and sold to the West Indies, and African slaves were bought there and brought in return to Carolina.

Wilson, for the Proprietors, offered to those who would go out to the province, — to each master or mistress of a family, 50 acres; to every able son or man-servant they should carry 50 acres more, and the like to each marriageable daughter or woman-servant; and for each child, man or woman servant under sixteen years of age, 40 acres; to each servant when his time of service was out, 50 acres. This land was to be to them and their heirs forever, with the reservation of a penny an acre *quit-rent* to the Lords Proprietors. To those who preferred not to be encumbered with paying a rent, and also to secure to themselves tracts of land without being forced to bring servants to put upon them, the Proprietors offered to sell at the rate of £50 per 1000 acres, reserving a peppercorn per annum rent when demanded. This was certainly not very cheap if we assume that the pound at that time was equal in value to four at the present; for the price of those wild lands would have been equal to about one dollar an acre of the present currency, a price at which large tracts of the same can be purchased to-day.

CHAPTER IX

1682–85

THE immigration to Carolina had hitherto been that simply of adventurers uninfluenced by any religious or political motives. Governor Sayle, it is true, was a Puritan, but it was not on that account that he had been made Governor: it was rather because of his availability to Yeamans when he determined not to come himself. So, too, West was a man of piety, but not on that account had he been appointed, but only because that he was "the fittest man for the trust" the Proprietors could find when Sir John again failed them. The breaking out of the Popish Terror in England in 1678, and the religious excitement which ensued, in view of the succession of James to the throne in case of his brother's death, in which commotion Shaftesbury, one of the Proprietors, was much involved, now caused an emigration from England to Carolina of a class generally superior in character and morals to any that had yet come, excepting only the Barbadian planters and the French Protestants who had come out with Grinard and Petit.

The Proprietors, on the 10th of May, 1682, announced that they had been prevailed upon at the request of several eminent persons who had a mind to become settlers in the province to review their Fundamental Constitutions and to make some additions and alterations thereto. The first two of these changes related only to the matter of

precedence between themselves, and were of no concern to the colonists. The third was the very small concession that the Grand Council "W^a is the Senate of Carolina," they said, were allowed to propose to the Parliament such things as they might upon mature consideration think fitting for the good of the people, without first submitting the same to the negative of the Palatine Court in England. The fourth then went a small step further and provided that in case the Grand Council should forget their duty, and not take sufficient care to remedy inconveniences by proposing fitting laws to be passed by Parliament, the grand jury of the county might present anything necessary to be passed into law; and if the Grand Council did not then in convenient time propose it to the Parliament, that it might be acted upon without their consent. The only other considerable alteration was that made in compliance with the desire of several eminent wealthy men, who proposed to become settlers in Carolina, and of some who were already there, who were unwilling to be encumbered with the payment of rent for their lands; for these the Proprietors agreed that rent might be remitted by special instruments under their hands and seals.

These modifications were made to meet the views of influential nonconformists, who were turning their eyes to the new country, in apprehension of persecution at home. In a letter accompanying these modifications their Lordships disavowed power thereafter to alter anything in the Fundamental Constitutions without the people's consent, but at the same time ordered that no person should be chosen a member of the Council or have land allotted before he subscribed submission to these laws in their amended form. The colonists, remembering the oaths that had been extorted from them to the first set, and still denying the right of the Proprietors under the charter to make

any law without the assent and approbation of the people assembled for this purpose, declined again to recognize these Constitutions even in their modified form. It was just as well that they did so, for a short time after — and that before it could have been known in England that they had refused to accept the Constitutions of May, 1682 — there came out still another set bearing date the seventeenth day of August, to which the Council and the people were again solemnly required to subscribe. No other reasons for the sudden alteration were given than that it was done at the request of certain Scots and other considerable persons. This last set was likewise rejected by the colonists.[1]

An order contemporaneous with the modifications of the Constitutions of the 10th of May, 1682, divided the province into three counties. Berkeley, embracing Charles Town, extended from Sewee on the north to Stono Creek on the south; beyond to the northward was Craven County, and to the southward Colleton County, all extending within land to a distance of thirty-five miles from the sea-coast. A County court was ordered to be established at Charles Town for all the inhabitants. Craven County was sparsely settled until the Huguenots occupied the banks of the Santee, so that practically there were but two counties at this period.[2]

Oldmixon, the author of the work entitled *The British Empire in America*, writes: —

"'Twas about this time that the Persecution rais'd by the Popish Faction and their adherents in England against the Protestant Dissenters was at the height: and no Part of the Kingdom suffer'd more by it than Somersetshire. The Author of this History liv'd at that time with Mr. Blake, brother of the famous General by that name, being educated by his Son-in-law, who taught School in Bridgewater; and remembers tho' then very young, the reasons

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 421.

[2] *Ibid.*, 134-135.

old Mr. Blake us'd to give us for leaving England. One of which was, that the miseries they endur'd, meaning the Dissenters, then were nothing to what he foresaw would attend the Reign of a Popish successor; wherefore he resolved to remove to *Carolina*. And he had so great an interest among Persons of his principles (I mean Dissenters) that many honest substantial Persons engaged to go over with him."[1]

Benjamin Blake,[2] Daniel Axtell, and Joseph Morton,[3] who afterwards married Blake's daughter, were the leaders of this movement. Several other families followed the fortunes of Blake; and through the encouragement of Axtell and Morton, five hundred persons arrived in Carolina in less than a month, so that, as we have seen, the population of the colony was doubled during the period from 1680 to 1682. In reward for this great service, Morton and Axtell, with Thomas Colleton, who had been the Proprietors' agent in Barbadoes, and who had also contributed much to the increase of the colony, were made Landgraves in 1681; and Governor West was now required to give place to Joseph Morton, who was commissioned Governor on the 18th of May, 1682.[4] To find an excuse for his removal, the ever-ready and convenient charge was made against West, — that of dealing in Indian slaves, and opposing the Proprietors' policy in the colony. The real reason was doubtless to encourage immigration from this new and important source.

[1] *British Empire in Am.*, vol. I, 460; Oldmixon, *Carolina*, Carroll's *Coll.*, vol. II, 407.

[2] Benjamin Blake was a brother of the famous English Admiral of the Commonwealth. The family were of Bridgewater in Somersetshire.

[3] The Mortons were an ancient English family. Prominent among the members of it who came to America, besides Joseph Morton, were Thomas Morton, one of the most interesting historical characters of early New England; Rev. Charles Morton, Vice President of Harvard and author of a number of treatises; George Morton, the ancestor of Vice President Levi P. Morton. *Morton Memoranda* (Leach), 1894.

[4] *Coll. Hist. Soc. of So. Ca.*, vol. I, 105.

A still more important movement was inaugurated about the same time, which was destined, however, to end disastrously. On the 21st of November, 1682, the Lords Proprietors inform Governor Morton that they had entered into an agreement with Sir John Cockram, of Ochiltree and Sir George Campbell, in behalf of themselves and other Scots, for the settlement of a county in Carolina. This new colony was conducted to Carolina by Henry Lord Cardross. His Lordship was descended from the Lords Erskine and the Earls of Mar, and Lady Cardross was the daughter of Sir James Stuart. Lord Cardross had been in many ways a sufferer for resistance to oppression, and determined to seek freedom of conscience in America. Nor was he alone in this. A company of noblemen entered into bonds with each other for making a settlement in the province. The subscribers were thirty-six in number. Among them were some who bore the names of Callender, Cardross, Yester, Hume of Polwart, Cockburn, Douglass, Lockhart, Gilman, etc. They had obtained from the Proprietors the grant of a county consisting of thirty plats of 12,000 acres each in the neighborhood of Port Royal, the title for which the Proprietors undertook to secure by treaty and purchase from the Indians: and for this purpose the Proprietors authorized Governor Morton and Maurice Mathews to receive and take possession of all lands sold by the Indians. The Scots selected Port Royal on account of the fame of its harbor and the excellence of its situation, which had been so greatly extolled: and doubtless supposing that as the titles to the lands were to be obtained by purchase from the Indians, no danger was to be apprehended from that source. Unfortunately, they did not take into consideration the proximity of the location to the Spaniards at St. Augustine.

This colony was to be independent of that at Charles Town, and Cardross understood himself to have coördinate jurisdiction with the Governor there. He landed in 1683, and founded Stuart's Town, probably so called in honor of the family of Lady Cardross. Rivers states that Lord Cardross was accompanied by about ten families, among whose names were those of Hamilton, Montgomerie, and Dunlop: but Howe quotes Wodrow, a most exact historian, to the effect that there were many others.[1] It had, indeed, been expected that some 10,000 emigrants would have been obtained from Scotland to this colony, for the persecution consequent upon the rising in the West country was then raging fearfully: and, while many were fleeing before it in anticipation, many others were involuntarily banished and sent to America, condemned to servitude.

As an instance of the cruelty with which these unfortunate people were treated, and illustrating the general insecurity of life and liberty, of the times, Dr. Howe relates the following incidents: A considerable number of Scotch rebels were sentenced to transportation in a ship belonging to William Gibson, a merchant in Glasgow, and commanded by his brother, Captain James Gibson. On the voyage these poor people were disturbed when at worship, and the hatches closed upon them whenever they began to sing. They were stinted in their food, and water was unnecessarily denied them. One is supposed to have died from thirst. The sick were not cared for. One of the voluntary exiles, failing to pay all of his passage-money, was forced into the country as a servant. Two, attempting to escape, were barbarously used, beaten eight times a day, and, it

[1] *Hist. Sketches* (Rivers), 142; *Hist. Presb. Ch.*, 80; Wodrow's *Hist. of the Sufferings of the Church of Scotland.*

is said, condemned to perpetual servitude, but to whom and in what way is not stated. Captain Gibson did not restrict himself to the prisoners delivered to him. He seized one Elizabeth Lining, who had gone aboard the vessel when lying in the Clyde, to visit the prisoners, and brought her off in captivity. She was set at liberty as a free woman by the Grand Council at Charles Town, on the 17th of October, 1684, upon her petition; but we are not told that she was restored to her native land. Most of these prisoners died in Carolina.

Governor Morton's administration was but of short duration. He was a man of a sober and religious temper of mind, with some share of wisdom; and from his family alliance it was hoped that the hands of the government would be strengthened; but his instructions from England were so opposed to the views and interests of the people as greatly to hamper him in the execution of the duties of his office. His Council was composed of John Boone, Maurice Mathews, John Godfrey, Andrew Percival, Arthur Middleton, and James Moore. Some of these differed widely from him in opinion with respect to public measures, and claimed greater indulgences for the people than he had authority to grant. This strengthened the differences between the two parties already forming in the colony, — one in support of the prerogative and authority of the Proprietors, the other in defence of the liberties of the people; the one party relying upon the Fundamental Constitutions and the Governor's instructions, and the other resting their rights under the Royal charter. A singular illustration of the potent influence of individual interest over political theories and principles was here presented. We find West, a dissenter, and Morton, who had just left his own country for religious freedom and political liberty, Roundhead commoners, both accepting the

bauble title of Landgrave, and upholding the arbitrary prerogative of the Proprietors, while the churchmen from England and Barbadoes were, for the present, insisting upon the chartered rights of the people under the Royal grants.

The election for the twenty members of Parliament had hitherto been held at Charles Town, the centre of the small population, but now that the people were increasing, and in a measure spreading themselves, and that the new counties had been laid out, the Proprietors, doubtless influenced by Morton and his party, who had settled on the Edisto, directed that Berkeley and Colleton counties should be equally represented by the election from each of ten members; and that the two elections should be held on the same day, respectively, at Charles Town and at London (afterwards called Wilton) in Colleton. It is not known whether Governor Morton had received these instructions at the time he convened a Parliament in September, 1683. On the 3d of that month the Proprietors wrote to him reiterating their instructions, and adding that, as they were uncertain that their orders had arrived in time, they directed that if the Parliament had been chosen by election only in Charles Town, that it be dissolved and a new Parliament called, to be chosen as then directed.

There is a passage in this letter which indicates that the voting in Carolina even before this early day had been by ballot. The Proprietors wrote: —

"We are informed that there are many undue practices in the choice of members of parliament, *and that men are admitted to bring papers for others, and to put in their votes for them* which is utterly illegal and contrary to the custom of parliament, and will in time, if suffered, be very mischievous. You are therefore to take care that such practices be not suffered for the future; *but every man must deliver his own vote and no man be suffered to bring the vote of another*," etc.[1]

[1] *Hist. Sketches of So. Ca.* (Rivers), 135; Appendix, 407.

It is certain that voting "by ballot or scrutiny" was expressly directed by their Lordships' instructions of September 10, 1685.[1]

It was certainly a great advance for the convenience of the people to have elections held in two places instead of one. But it was a most arbitrary and unjust provision that the new Colleton County, with its sparse population, settled but recently by the new-comers from England under Blake, Morton, and Axtell, should have equal representation with Berkeley, in which far the greater part of the people were established. Such a deviation could be regarded only as a design to govern the old settlers by the new. It was also another violation of the principle

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 115.

The recklessness of assertion by writers in regard to Southern history is strikingly exhibited in a recent work entitled, *The Puritan in Holland, England, and America* (1892). The author having traced to his satisfaction the origin of the use of the ballot in the North to the organization of Salem Church in 1629, in which it was adopted, as he holds, from Holland, proceeds boldly to assert: —

"Here then we see the written ballot introduced into the early colonies where the Netherland influence can be directly traced and into them alone. Like the free school and the township it was unknown South of Pennsylvania, as it was in the mother country. How it finally worked into the first constitutions of a majority of the original thirteen States, and how it has thence spread over the whole Union, Virginia and Kentucky bringing up the rear in 1864 and 1891, has already been shown." — Vol. II. 435–440.

There never has been an election in South Carolina except by ballot, as far as is known. In Great Britain the ballot was suggested for use in Parliament by a political tract of the time of Charles II. It was actually used by the Scots Parliament in 1662. These were the sources from which it was taken in this colony. Locke, who prescribed it in the Fundamental Constitutions for elections in the Parliament and Grand Council, was doubtless much more familiar with these precedents and those of ancient Rome than with the action of the Salem congregation. It will appear later on that the assertion in regard to free schools, so far as South Carolina is concerned, is as untrue as that in regard to the ballot.

for which the colonists were contending, *i.e.* that under the charter no law could be passed without their assent. If the Proprietors could alter the election precincts at will, and designate the apportionment of members of Parliament in the precincts, there was an end of all influence and control of the people in the government. Whether the instructions had arrived before the election of the Parliament called by Morton or not, they were disregarded, and the elections had been held at Charles Town as usual.

Governor Morton dissolved the Parliament upon the receipt of the letter of the 30th of September peremptorily ordering him so to do,—but not before numerous acts had been passed by it. The Proprietors were as much offended by the character of the laws passed by this body as by the election in violation of their orders. They now viewed with abhorrence the adoption of a law for protecting the colonists against prosecution for debts contracted out of the colony as impeding the course of justice, as against the King's honor, and repugnant to the law of England, forgetting that in their anxiety to encourage immigration they had sanctioned a similar law in 1670. They ordered "that all officers should be displaced who had promoted it." The Governor and Council were further blamed for slighting their instructions concerning the election. The Proprietors claimed to have power by their charter to call assemblies of the freeholders; that their Fundamental Constitutions appointed how this should be done, and that their orders stood in the place of the Constitutions until they could be put in force. But this haughty strain, observes Rivers, did not quell the spirit of opposition, and their Lordships further showed how little they understood those under their government, when, vexed at their failure, they wrote to Governor Morton in the follow-

ing March. "Are you to govern the people, or the people you?"[1]

Unfortunately for the plans of the Proprietors, continues the same author, their Governors and deputies were, for the most part, necessarily selected from the colonists themselves, whose dispositions and principles they could not be sure were in accordance with their own. Did they instruct Morton to remove all officers who sold or encouraged the selling of Indian slaves? The Governor himself was not free from blame. Their own deputies fell under the blow as well as the commoners of the Grand Council; and these the people thought fit to elect again. Did they inveigh against any indulgence to the English pirates who visited the coast? The people were not disposed to hang them while their monarch encouraged, with unusual honors, the chief captain of the band. Did the Proprietors demand their quit-rents in money? The people said there was no mint in Carolina and coin was scarce. Did they refer to the powers granted by the charter? The people were willing to be governed by the charter which made their concurrence necessary for the adoption of any plan of government.[2]

The Proprietors, thus foiled by their own agents, thought that possibly a Governor from abroad would be more subservient to their interests, so Morton was removed and Sir Richard Kyrle of Ireland was appointed in his place in April, 1684. To fit him for the position, Kyrle was, of course, appointed a Landgrave. The Proprietors expressed to him their hope that from his abilities and activity the affairs of Carolina would be in a better condition than before; they pointed out the evils they wished him to remedy, cautioned him against the Spaniards, and advised him to put the province in a state of defence. But Sir

[1] *Hist. Sketches of So. Ca.* (Rivers), 135, 137. [2] *Ibid.*, 137, 138.

Richard did not live to carry out his instructions. He died within six months after his arrival in the country.[1]

Upon the death of Kyrle, the Council, who under the instructions were charged in such event to choose a person to act until the Proprietors' pleasure should be known, again turned to West and chose him as Governor; but it happened that he was not at that time in the province. In their instructions to Kyrle the Proprietors had recommended that in case of his absence he should commission Robert Quarry, the Secretary of the province, as Governor of Charles Town; acting upon this intimation of their Lordships' opinion of Quarry, in the absence of West the Council chose him as Governor. But it was, indeed, difficult to please their Lordships. They disapproved the selection. Forgetting, apparently, that they had denied Yeamans's right to be Governor because he was a Landgrave, they now wrote to the Council that they should have chosen Landgrave Morton, whom they, the Proprietors, had just removed to make way for Kyrle, "to whom," they said, in the absence of Landgrave West, "by virtue of our Fundamental constitutions and instructions the government of right belonged," — a rule we shall soon see them disregarding when it conflicted with their purposes. Beyond the expression of their disapproval, the Proprietors did not, however, interfere. Colonel Quarry was a man of character, and subsequently occupied other high positions in colonial affairs. He succeeded Edward Randolph as Surveyor General of his Majesty's customs in America, was Vice Admiral of Carolina[2] in 1700, and afterwards became Judge of Admiralty of New York and Pennsylvania. His short *ad interim* administration was not a fortunate one — responsible as it was, in part, for the ill-

[1] Hewatt, vol. I, 92; *Hist. Sketches of So. Ca.* (Rivers), 138.

[2] *Coll. Hist. Soc. of So. Ca.*, vol. II, 265.

treatment of the unhappy Scotch colony under Lord Cardross. But the justice of the accusation for complicity with the pirates, for which it has been most known in history, is at least not free from doubt.

On the 1st of September, 1684, an armed vessel came into the Ashley, which pretended to have been trading with Spaniards, and Quarry reported to the Proprietors that he had prohibited the landing or selling of any of its goods, as he had received information that it was a piratical vessel. This statement, it was afterwards charged to the Proprietors, was false; that in fact, although Quarry knew the vessel to be piratical, he had allowed the plundered goods to be landed and sold. Quarry had in the meanwhile displeased the Proprietors in other matters, particularly by his treatment of Lord Cardross. On the 15th of February, 1685–86, they ordered an inquiry as to his conduct, declaring that the truth of the charge must be proved or Quarry's reputation vindicated.[1] Two months after, April 26, complaining of his conduct to Lord Cardross, they threatened that he should be suspended from his office as Secretary if he persisted in his "refractioness."[2] Six years later, May 13, 1691, they allude to "Mr. Quarry who had been dismissed by them from the Secretaryship for harboring pirates and *other* misdemeanors."[3] Whether his complicity with the pirates, or "other misdemeanors" which he persisted in, was the real cause of his removal from the office of Secretary may be doubted in view of his subsequent career. However this may be, we find him in 1697 apparently in full favor again with their Lordships.[4] It is scarcely credible that he would have been chosen to the high position he afterwards occupied, both in regard to the King's revenue and as Judge of Admi-

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 116.
[2] *Ibid.* [3] *Ibid.*, 127. [4] *Ibid.*, 143.

ralty, had not his character been fully vindicated from the charges of harboring pirates, and of a false report to cover up his conduct.

The Proprietors at this time were, no doubt, sensitive upon this subject. Sir Thomas Lynch, the Governor of Jamaica, had shortly before complained to the Board of Trade and Plantations in England of the great damage that arose to his Majesty's service, by the harboring and encouraging of pirates in Carolina and other governments and proprietaries, where there was no law to restrain them.[1] Jamaica itself, it may be observed, had just been required by the Royal Government to adopt and enforce an act sent out from England for the suppression of this evil in her own waters.[2] Lynch's complaint did not apply to Carolina alone, though it was the only province he mentioned by name; nor does he mention the colony at Charles Town. His complaints are general, and may probably have been grounded upon the visits of pirates to Cape Fear, which was their favorite resort.

When the English colonists under their charter settled Carolina, pirates had been for many years occupying the coast at their pleasure. Indented as it was by numerous harbors and inlets, it afforded them a safe refuge when pursued by their enemies, and most available places for refitting and repairing after a cruise. Here they could bring their prizes; and if ancient tradition be true, here they buried their treasures. The coast country was a wilderness, inhabited only by scattered tribes of Indians; and once within the headlands of the spacious harbor, they were protected from interference and could plot their nefarious schemes at their leisure.[3]

[1] *Colonial Records of No. Ca.*, vol. I, 347.

[2] Bryan Edwards's *Hist. West Indies*, vol. I, 292.

[3] *The Carolina Pirate* (Hughuson); *Johns Hopkins Univ. Studies*, 12th Series, V, VI, VII, 12.

Charles II had, upon his restoration, openly encouraged these public robbers, who, sometimes under the designation of privateers, had devastated and plundered the Spanish dominions. The business was esteemed just and laudable as long as it suited the Royal interest, and was treated as an honorable mode of warfare. From mere whim his Majesty had knighted Henry Morgan, a Welshman who had plundered Porto Bello and Panama. He not only knighted this buccaneer, but had made him Deputy Governor of the Island of Jamaica, the present Governor of which was now complaining of pirates. This body of plunderers was so formidable, indeed, as to strike terror into every quarter of the Spanish dominion. When peace was declared between England and Spain, many of these so-called privateers naturally developed into avowed pirates, and cared no more for England than Spain. But at first there was doubtless a ground of legitimate sympathy between the colonists in Carolina and these wild rovers. Hitherto their warfare — conducted under genuine or pretended commissions as privateers — had been principally, if not altogether, against the commerce and colonies of Spain. The Spaniards in Florida, though their government in Europe was actually in a treaty of peace with Great Britain, disregarded its obligations, and pursued the colonists of Carolina as their enemies. Were the feeble colonists in Carolina, having the Spaniards and Indians already to contend with, to incur the enmity and invite the hostility of these buccaneers that the European powers were unable or unwilling to suppress? Were the Carolina colonists to be pillaged by the Spaniards at St. Augustine, and on their part to regard and treat these people, whether privateers or pirates, as enemies because they in turn preyed upon the Spaniards?

But however natural, and in some sort legitimate, was

the sympathy of the Carolina colonists with the enemies of the Spaniards — whoever they might be; however unjust it was to expect the weak colonists on the Ashley to enter into conflict with them, — there does not appear after all that there was any sufficient ground for the charge that the Carolinians were, in fact, aiding and abetting the pirates. Nor did the Proprietors quietly submit under the charge that their colony was to be blamed in the matter. Craven, the Palatine, met the accusation promptly and with spirit. On the 27th of May, 1684, he wrote to the Board of Trade that upon inquiry he had been informed that one Jacob Hall did touch at Carolina for wood and water as he came from Vera Cruz, but belonged not to Carolina, nor was any inhabitant of the province with him. He had stayed but a few days and then sailed for Virginia. Hall, continued the Earl, acted under Van Horn, who had a commission from the French, and his Majesty's pleasure not to suffer his subjects to take commissions from foreign princes not being known in Carolina was the reason, he conceived, why the privateer had not been secured. The Earl went on to say that he could not hear but of one more that ever was in Carolina, and that that one, not pretending any commission from any foreign prince, and having taken some vessels, was indicted, found guilty, and executed. The captain, with two other of the most guilty of the company, had been hung in chains at the entrance of the port, and their bones hung there to that day, an example to others. Furthermore, Lord Craven plainly intimated that Sir Thomas Lynch, who was now so virtuously calling attention to the harboring of pirates by others, was not himself free from implication with their business. Nevertheless, Lord Craven informs the Board of Trade that the Proprietors had sent directions to Carolina to pass an act like that of Jamaica for the suppression of the evil.[1]

[1] *Colonial Records of No. Ca.*, vol. I, 348.

On the 11th of March, 1684–85, the Proprietors again issued a commission to Joseph West as Governor, but it was not until September of that year that he resumed the office he had resigned to Morton two years before.[1] In the meanwhile the difficulties of political affairs had greatly increased. The apportionment of the members of Parliament was still warmly opposed by the inhabitants of Berkeley County, whose able leaders were displaced from the Council upon the same pretexts that West had been, two years before, removed from the governorship; viz. upon the charge of sending away Indian slaves. Another difficult question with which Governor West had now to contend was that in regard to the tenure of land. In the first Fundamental Constitutions and in the Agrarian Laws the Proprietors had declared that lands should be held for the rent of a penny an acre, "or the value thereof," upon which terms and inducements many persons had emigrated to Carolina. But now it was declared that lands should be held only by indentures, in which the words "or the value thereof" were to be stricken out and a reservation added of reëntry on failure of paying the quit-rent in money. To the opposition excited against this clear violation of the contract upon which the colonists had come out, and the reasonable request that, as money was scarce, the rents might be paid in merchantable produce of the land, the Proprietors only replied, "We insist to sell our lands our own way." Then their Lordships recurred again to the old subject of the Fundamental Constitutions. On the 12th of March, 1684, the day after they issued his commission, they wrote to Governor West instructions containing thirty-eight articles, which repealed all former instructions and temporary laws, and ordered the third set of Fundamental Constitutions

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 113.

(*i.e.* of January, 1682) to be subscribed and put in practice. The members of the Grand Council, who represented the people, protested against this measure, which sought with so decisive a step to change the government of the colony.[1]

Governor West contended with these difficulties for a year without success, when, hampered by his instructions, and finding it impossible to reconcile the growing differences between the Proprietors and the colonists, utterly disheartened he gave up, and, it is said, abandoned the province. Nothing is known of his subsequent career.[2] Oldmixon, who wrote in 1708, mentions "Mr. Landgrave West's plantation," which implies that he was still living and owned the place; but whether alive or residing in the province is not more definitely stated.[3] West had thus acted three times as Governor, on each occasion being the choice of the people, and twice under commission from the Proprietors. He was for a longer time Governor than any other under the Proprietors. In a government, says Rivers, carefully planned to be an aristocracy, and under the fostering direction of distinguished nobility in England, he, a plebeian, faithful, wise, and modest, became for fifteen years the guiding spirit of all that was good and successful.[4]

But wise and good as he was, twice he was put aside by the Proprietors to suit their pride or their interest — once for Sir John Yeamans, not because of any fault of his, but because Sir John was a Landgrave, and the Proprietors could not as yet bring themselves to raise their humble,

[1] *Hist. Sketches of So. Ca.* (Rivers), 139, 140; *Coll. Hist. Soc. of So. Ca.*, vol. I, 114.

[2] *Hist. Sketches of So. Ca.* (Rivers), 141.

[3] *British Empire in Am.*, vol. I, 513; Carroll's *Coll.*, vol. II, 452.

[4] *Hist. Sketches of So. Ca.* (Rivers), 141.

faithful servant to that dignity. The next time he was made to give way to a new-comer of wealth and influence.

It was during his administration, February 16, 1684–85, that the Proprietors announced the death of King Charles II and the accession of his brother James, and instructed him to proclaim the new King at Charles Town and London,[1] which was accordingly done.

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 113.

CHAPTER X

1685–92

On the retirement of West, the Council chose Morton as Governor; the Proprietors confirmed their choice and in September, 1685, sent him their commission. Governor Morton's second administration was still shorter than his first, but it is memorable for three important events: (1) The refusal of the representatives of the people to subscribe the Fundamental Constitutions; and their consequent expulsion from Parliament. (2) The establishment in Carolina of a revenue officer under his Majesty to enforce the customs and the navigation laws; and the opposition of the people to his demands. (3) An invasion by the Spaniards, and the destruction of Lord Cardross's colony at Port Royal.

The Parliament which convened in November, 1685, consisted of eight deputies of the Lords Proprietors and twenty commoners, of whom one was absent. The deputies were Joseph Morton, Robert Quarry, John Godfrey, Paul Grimball, Stephen Bull, Joseph Morton, Jr., John Farr, and William Dunlop. Governor Morton, in obedience to the instructions sent to Governor West, called on the members to subscribe the Fundamental Constitutions of 1682. Twelve of the nineteen refused to do so, because, as they said, they had already subscribed to those of July, 1669. The Governor thereupon ordered them to quit the house. They protested, without avail,

against the tyranny of their ejectment. The remaining seven enacted all the laws passed at that session of Parliament.[1] These were, however, but four in number: (1) The act which had been sent out for restraining and punishing privateers. (2) An act for the better security of the province against hostile invasions and attempts by sea or land, which the neighboring Spaniards or other enemy might make upon the same. (3) An act for reviving several acts theretofore made which had expired. (4) An act fixing the fees chargeable to the register of births, marriages, and burials.[2]

In 1685 George Muschamp arrived at Charles Town as the first Collector of the King's revenue, and the Governor and Council were instructed "not to fail to show their forwardness in assisting in the collection of the duty on tobacco transported to other colonies: or seizing ships that presumed to trade contrary to the acts of navigation."[3] Muschamp's arrival introduced into Carolina a subject which had already been the cause of great animosity and contention in other colonies, especially in Barbadoes, — a grievance which was really the cause of the great revolution of near a hundred years after.

The Navigation act, which was the basis of England's commercial prosperity, had originated in no enlarged view of statesmanship. Its rudiments were laid by the Long Parliament with the narrow view of crippling the West India sugar colonies which held out for the Royal cause, by stopping the gainful trade which they then carried on with the Dutch, and at the same time clipping the wings of those opulent and aspiring neighbors. The act prohibited all ships of foreign nations from trading with any English

[1] *Hist. Sketches* (Rivers), 141, 142.

[2] *Statutes of S. Ca.*, vol. II. 7–14.

[3] Chalmers's *Pol. Ann.*; Carroll's *Coll.*, 322.

plantations without license from the Council of State. In 1651 the prohibition was extended also to the mother country, and no goods were suffered to be imported into England or any of its dependencies in any other than English bottoms, or in the ships of that European nation, of which the merchandise imported was the genuine growth or manufacture.[1]

The Barbadians vigorously protested against this measure, which was aimed chiefly at their trade with the Netherlanders. A spirited declaration was drawn up and subscribed by Lord Willoughby, the members of his Council, and the assembly of Barbadoes, stating their objections and expressing their firm resolution of opposing the act of Parliament to the utmost extent of their power. It is most interesting to observe that in their admirable address, the Barbadians, more than a hundred years before, anticipated the fundamental ground of the American Revolution by the bold declaration, — "*they totally disclaimed the authority of the British Parliament in which they were not represented.*" To submit to such a jurisdiction, they asserted, would be a species of slavery far exceeding anything which the nation had yet suffered, and they affected not to doubt — they declared — that the courage which had enabled them to sustain the hardships and dangers which they had encountered in a region remote from their native clime, would continue to support them in the maintenance of that freedom without which life itself would be uncomfortable and of little value.[2] Brave words, which were sustained by an equally brave resistance! But Barbadoes was reduced by the parliamentary forces, and the act imposed upon them. The Barbadians looked with confidence that, upon the Restora-

[1] Blackstone's *Com.*, vol. I, 418.

[2] Poyer's *Hist. of Barbadoes*, 53–55.

tion, this act would have been set aside, but the benefits resulting to England from a system which accident and resentment, rather than any ideas of true policy, had suggested to Cromwell, soon put an end to any such hopes.[1] The only material alteration made was to increase its rigor. By Statute 12 Car. II, c. 18, it was in addition prescribed that the master and three-fourths of the mariners of every vessel importing goods into England or into any of its dependencies should also be English subjects.[2] It was this law which Muschamp had now come to enforce upon this colony.

The Carolina colonists, following the line of their first strict constructionist, "Will Owen," who no longer, however, appears in their Councils, took the position that their charter having been granted subsequently to the passing of the Navigation act, superseded that law in this province.[3] Their resistance to the act, we may be sure, did not, however, rest solely upon this ingenious view. If it had not been suggested, the colonists would doubtless have done just as they did without this excuse. They disregarded Mr. Muschamp, and traded as they pleased. The point raised by the colonists seems, however, to have given the government at home some concern. This reception of the King's officer by the colonists was at this time well calculated to give great anxiety to the Lords Proprietors, for James II wanted but an excuse to revoke their charter. He had, indeed, already determined to suppress all the Proprietary governments: had instructed the Attorney General to proceed by *quo warranto* against them; and proceedings were actually pending at

[1] Poyer's *Hist. of Barbadoes*, 77.

[2] Blackstone's *Com.*, vol. i, 419.

[3] Chalmers's *Pol. Ann.*; Carroll's *Coll.*, 322; *Hist. Sketches* (Rivers), 148.

this time which resulted in the overthrow of the charter governments of New England. The Proprietors of Carolina, however, bent to the storm, and it passed over them for the time.[1]

The misfortunes of the Scotch exiles did not end upon their arrival in Carolina. It might have been supposed that the colony at Charles Town would have hailed with joy the establishment of another at Port Royal, if for no other than the selfish reason of the protection which such a colony would have interposed between them and the hostile Spaniards at St. Augustine. But, on the contrary, they received the Scotch exiles with little favor. Jealousies soon arose with regard to the political power of the new settlement. Lord Cardross claimed from his agreement with the Proprietors coördinate authority with the Governors and Grand Council at Charles Town. This was resented, and Morton and his Council continuing to exercise jurisdiction over persons within the territory given to Lord Cardross, his Lordship with Hamilton, Montgomerie, and Dunlop joined in a communication, which was taken by Dunlop in person to the Governor and Council at Charles Town; in which they with dignity and forbearance expostulated against this conduct, reminding them that both communities were under the same King and the same Lords Proprietors; that it was against the interest of either to allow jealousies, especially at a time when they had ground to apprehend a Spanish invasion. Dunlop would inform them — they wrote — of the "sinistrous dealings" of two noted Indians, *Wina* and *Antonio*, who were instigating the Indians around to hostilities among themselves, and against their settlement, and were entertaining a spy from St. Augustine or St. Mary's. They requested the

[1] Chalmers's *Pol. Ann.*; Carroll's *Coll.*, 323; *Hist. Sketches of So. Ca.* (Rivers), 149; *Colonial Records of No. Ca.*, vol. I. 552, 553.

Governor and Council at Charles Town to deliver to Dunlop six guns the Lords Proprietors had promised them. These overtures met with a rude repulse; the Grand Council persisted in their complaints — they even went further and summoned Lord Cardross before them, as if to answer for some high misdemeanor; and when he did not come, they affected to treat his failure to appear as a contempt, though his Lordship, overcome by the heat of a climate to which he was not accustomed, lay at Port Royal prostrate with fever.[1] Another instance is here presented of the ill-judgment and impracticability of all the Proprietors' schemes. Two jurisdictions were set up without a clear line of demarcation between them, and with doubtful and conflicting powers. Lord Cardross, disgusted with his arrest and ill-usage, abandoned the struggle and, fortunately for himself, retired before the blow fell upon the colony, of which his associates and himself had in vain warned the Governor and Council at Charles Town. He returned to Scotland and took an active part in the political revolution which was then at hand.[2]

The two Dunlops, William and Alexander, who came out with Lord Cardross, were both men of influence, and became of considerable temporary consequence in the colony. William, who bore the communication to the Governor and Council, did not get the guns for which he applied: but on the 18th of November the Proprietors wrote that they had appointed Alexander Dunlop sheriff of Port Royal, and directed the guns to be delivered to him or to Lord Cardross.[3] They at the same time recom-

[1] *Hist. Sketches of So. Ca.* (Rivers), 142, 143; Appendix, 407–409; Howe's *Hist. Presb. Ch.*, 84, 85.

[2] *Hist. Sketches of So. Ca.* (Rivers), 140; Oldmixon, Carroll's *Coll.*, 411.

[3] *Coll. Hist. Soc. of So. Ca.*, vol. I, 116.

mend William Dunlop to the consideration of the Governor and Council at Charles Town, and on the 23d of that month he appears as a deputy among them.[1] It is probable that it was through his influence the act was passed attempting to provide for the better security of the province against Spanish invasion. But, beside the passing of the acts which recognized a state of war as actually existing between the Spaniards and the Carolinians, nothing was done to meet the threatened emergency.

Lord Cardross had warned Governor Morton and his Council of the threatened invasion, but in vain. They would not even send him the dismounted and useless guns lying at old Charles Town, which had been promised by the Proprietors, until ordered to do so by their Lordships in November, 1685. The Scotch colony at Port Royal was utterly destroyed in consequence, but it did not suffer alone. The Governor himself was made to feel the blow.

In the summer of 1686 the Spaniards appeared.[2] They came suddenly with three galleys, — a hundred white men, with an auxiliary force of Indians and negroes, — and landed on the Edisto. They sacked the houses of Governor Morton and of Mr. Grimball, the Secretary of

[1] *Statutes of So. Ca.*, vol. II, 9. After remaining in the colony for some years and taking an active part in its affairs, William Dunlop returned to Scotland in 1690, and became principal of the University of Glasgow. Howe's *Hist. Presb. Ch.*, 117.

[2] The exact date of the appearance of the Spaniards is nowhere given. Chalmers states that it was "towards the end of the year 1686." But it certainly took place before October, for the Parliament was assembled, and passed an act in consequence of it, on the 15th of October. It was certainly later than March, as Edward Randolph refers to it as happening in 1686, by the old style the year beginning in March. The calling of the Parliament, the appeal to the Lords Proprietors, etc., which took place, would indicate that it must have been some time before October.

the province, who were at Charles Town, and pillaged them to the value of £3000 sterling, carrying off money, plate, and thirteen slaves of the Governor, and murdering his brother-in-law. They then turned upon the Scotch settlers at Port Royal, but twenty-five of whom were in sufficient health to oppose them. The Spaniards killed some, took others captive, whom they whipped in a barbarous manner, and plundered and utterly destroyed the settlement. The few who remained of this unfortunate company found refuge in Charles Town.[1]

Party strife was now forgotten in the excitement. An appeal was made to the Lords Proprietors, and in the memorial sent they were prayed to represent the matter to his Majesty.[2] But the Carolina colonists did not wait for an answer to this appeal, which could not reach them for months. They determined to take the matter into their own hands, and to give the Spaniards a lesson which would deter them from any repetition of insult and invasion. Unable to defend the wide extent of their territory at all points, they determined that the best measure of defence was boldly to strike at the heart of the enemy. The Governor and Council countenancing the scheme, a Parliament was summoned, and on the 15th of October an act passed for the immediate invasion of the Spanish territory. An assessment of £500, equivalent probably to about $10,000, was made, and Joseph Pendarvis and William Popell were appointed Receivers of the moneys raised. All the powers of the Grand Council were vested for the time in the Governor and any four of the Council. Preparations were all completed. Two vessels were fitted out, and four hundred men were ready to sail for the conquest of St. Augustine, when the ex-

[1] *Hist. Sketches of So. Ca.* (Rivers), 143, 144; Appendix, 425, 443.
[2] *Ibid.*

pedition was suddenly stopped by the arrival from Barbadoes of James Colleton, brother of the Proprietor, who had been created a Landgrave, and brought with him a commission as Governor of Carolina. He threatened to hang any of the colonists who persisted in their project, and they reluctantly abandoned it.[1] This was the unfortunate beginning of a weak and disastrous rule.

James Colleton was one of the distinguished family of Colletons from Barbadoes. Like his father, Sir John, and his brother, Sir Peter, he had occupied a prominent position there, and had been a member of the Assembly of that island from the parish of St. John's. To his dignity of Landgrave, 48,000 acres of land were inalienably annexed under the Constitutions. In an old map of 1715 Colleton's baronies are put down as covering most of what is still known as St. John's Parish, Berkeley,[2] and we may safely assume that in laying out and naming the parishes in 1706, that parish, as well as the parish of St. John's, Colleton, received their names from the old home of the family in Barbadoes. Unfortunately, James Colleton possessed neither the address nor abilities of the other members of his family. His career in Carolina began most unhappily. His conduct from the outset aroused the deepest resentment of the colonists.

The Proprietors, threatened at this time with the *quo warranto* proceedings and the forfeiture of their charter, — subservient to the Royal humor, which was now intent upon preserving a nominal peace with Spain, — promptly approved the action of the new Governor. While the colonists were burning with indignation at so unexpected and unworthy a termination of their efforts, the Lords Proprietors wrote to Colleton: "We are glad that you

[1] *Hist. Sketches of So. Ca.* (Rivers), 144; *Statutes of So. Ca.*, vol. II, 15.

[2] *Year Book City of Charleston* (Courtenay), 1883.

have stopped the expedition against St. Augustine. If it had proceeded, Mr. Morton, Colonel Godfrey, and others might have answered it with their lives."[1] They proceed meanly to justify the raid of the Spaniards upon the ground that the colonists had harbored pirates who were warring on them, and to argue "that every rational man must have foreseen that the Spaniards thus provoked" (*i.e.* by the harboring of pirates) would assuredly retaliate; that the clause in the patent (*i.e.* the Royal charter) that had been relied on to justify the measure "meant only a pursuit in heat of victory, but not a deliberate making of war on the King of Spain's subjects within her own territories, nor do we claim any such power. No man," they wrote, "can think that the dependencies of England can have power to make war upon the King's allies without his knowledge or consent."[2] This angry message on the part of the Proprietors, manifestly prepared rather for the political atmosphere of London than with regard to the interests of the colony in Carolina, was, to say the least, a most disingenuous statement of the case. The Proprietors had apparently forgotten that, but a short time before, the Earl of Craven had written to the Board of Trade, specifically denying that the Carolinians had ever harbored pirates.[3] The cause of the intense hostility of the Spaniards to the Carolinians was far deeper and more abiding. It had its origin, as we have seen, in the charters under which the Proprietors claimed. The long-threatened attack was made because the Spaniards claimed the land upon which Lord Cardross's colony was settled, and regarded the colony as another encroachment on their territory. It is true that the Governor of St. Augustine

[1] *Hist. Sketches of So. Ca.* (Rivers), 144.

[2] Chalmers's *Pol. Ann.*; Carroll's *Coll.*, vol. II, 319, 320.

[3] *Ante*, 206.

disowned the invasion, and declared that it was made without his orders; but it is equally true that he, at the same time, refused to give up the slaves taken by the raiders without an order from the King of Spain.[1] If the King of Spain could thus connive at the war made by his subjects upon the English colonists, were the colonists to remain supine and passively await their own destruction, while the Proprietors, three thousand miles away, were consulting the diplomacy of the court of St. James whether or not to permit retaliation?

But the provision in the charter upon which the colonists relied explicitly justified their conduct. The fifteenth clause recited and provided: "And because that in so remote a country and scituate among so many barbarous nations as well of savages *as other enemies* pirates and robbers may probably be feared," authority was expressly given to the Proprietors "by themselves or their captains or other officers to levy muster and train up all sorts of men of what condition so ever, or wheresoever born, whether in the said province or elsewhere, for the time being *to make war and pursue the enemy aforesaid, as well by sea as by land, yea, even without the limits of the said province* and by God's assistance to vanquish and take them and being taken, to put them to death by the law of war," etc.[2] There is nothing in the grant of sovereign power to the viceregal government of the Proprietors restricting it to "only a pursuit in heat of victory"; the power given was "*for the time being to make war*" and to pursue the enemies beyond the limits of the province. The plea, therefore, of the want of authority to allow the colonists to strike a manly blow in their own defence was a paltry

[1] Edward Randolph to Board of Trade, Appendix *Hist. Sketches of So. Ca.* (Rivers), 443, 444.

[2] *Statutes of So. Ca.*, vol. I, 39.

excuse to propitiate the King, whose displeasure had arisen from other causes.

The Proprietors ordered "a civil letter" to be addressed to the Governor of St. Augustine inquiring by what authority he acted.[1] Thus, it will be observed, they themselves regarded the attack as no mere raid of unauthorized pillagers, but an invasion sanctioned by the Spanish Government; a view which, as we have seen, was subsequently sustained by the action of the Spanish Governor in spite of his denial. In further confirmation of this, a new Governor having come to St. Augustine, he dispatched a friar to Charles Town to treat with the government here upon the subject.

And now fresh cause of offence was given by Colleton to the people, and grave suspicion aroused as to the honesty of his conduct. He refused to consult with the "commoners" in his Council, as the representatives of the people were termed, and only mentioned the Spanish messenger to them when he had to ask their consent to his maintenance out of the public treasury. Passing by "the bloody insolence the Spaniards had committed," Colleton, who could not pursue them in war, without the King's consent, now enters into a treaty of commerce with their agent, the friar. In pursuance of this agreement, the Spanish Governor sent what he considered the actual cost of the plunder which had been carried off; but would not return the captured negroes, who were actually employed in building a fort near St. Augustine. The colonists complained bitterly of the Governor's conduct. He had acted, it was said, contrary to the honor of the English nation, and for a little filthy lucre had buried in silence atrocities upon Englishmen who wanted not courage to do themselves honorable satisfaction.[2] They were, no doubt, all

[1] *Hist. Sketches of So. Ca.* (Rivers), 145. [2] *Ibid.*, 145; Appendix, 425.

the more chagrined when they afterwards learned that the Spaniards, upon hearing that they were coming to avenge their wrongs, had left their town and their castle and fled into the woods to save themselves. The expedition against St. Augustine was stopped for the time. But it was only postponed. The rupture between England and Spain in a few years allowed its renewal: but without the success which would probably have been attained at this time.

This excitement had not yet abated when Mr. Muschamp, in April, 1687, seized a vessel for violating the revenue law, upon the ground that four-fifths of the crew were Scotchmen and not Englishmen — the Navigation act not permitting Scotchmen the benefit of its provisions. The evidence, upon the trial, Muschamp had to admit, was not very clear; but the colonists disdained to rest the case upon the failure of proof. The court released the vessel and distinctly intimated, it is said, that had the evidence been ever so clear, the decision would not have been otherwise, as the charter gave the colonists the right to trade with Scotland and Ireland, and that they had the right to transport their own product in ships navigated by Scotchmen. Mr. Muschamp's report was referred to Powis, the Attorney General of England, who gave it as his opinion that the trade, *i.e.* that to Scotland and Ireland, was most directly contrary to the acts of Parliament; and though the charter of the colony was subsequent to the navigation acts, there was no color for the claim that it superseded those statutes unless it was so expressly provided. Upon the point whether it was so expressly provided in the charter, he gave no opinion, but advised that the charter should be inspected, and if it should appear that the charter did exempt the colonists from its operation, he would then be prepared to give his

opinion whether an act of Parliament could be overridden by a charter.[1]

The Proprietors were not slow in perceiving the drift and intimation of this opinion and were prompt in disclaiming any right to exemption from the navigation laws, which, they humbly conceived, "must be the discourse of ignorant and loose people only and not of any concerned in the government." They had no doubt but that the ship seized by Mr. Muschamp would have been condemned if there had been sufficient proof. They did not know, they said, what encouragement any ships from Scotland or Ireland could have to trade at Carolina, the inhabitants having hardly overcome their want of victuals, and having nothing to export but a few skins and a little cedar, both of which did not amount yearly to £2000.[2]

A large majority of the representatives of the people had, as we have seen, refused their assent to the act of the Fundamental Constitutions of 1682 which Governor West had been instructed to have subscribed, and which instructions Governor Morton had attempted to enforce. The refractory commoners had been excluded from the House, and, returning to their homes, spread disaffection everywhere. The dissenters, observes Rivers, who had left England in considerable numbers, driven by their apprehension of persecution under the coming reign of James II, had at first, in changing from a worse to a better condition, naturally supported the submissive party in the colony. In particular, Joseph Blake, whose daughter Morton had married, added his influence in checking and allaying "the extravagant spirit" of the discontented. But the more extravagant spirit of the instructions sent to Carolina threw the majority of the people, however,

[1] Chalmers's *Pol. Ann.*; Carroll's *Coll.*, 342, 345.
[2] *Ibid.*

differing in their principles on some matters, into the ranks of the opposition party.

The Proprietors had hitherto been greatly disappointed in the character of their Governors, who had generally, as they considered, opposed their views or exerted themselves in too feeble a manner to promote them. Sayle had been a good man, but a weak Governor. Yeamans had proved ambitious and selfish, and inclined to make the interest of Carolina subservient to that of Barbadoes. West had been wise and prudent, but he had not had the force — if he had the will — to meet and encounter the party who were beginning to demand constitutional liberty under the charter, and to refuse to be governed except under its provisions. Then they had tried Morton, — a new man, unconnected with the early disputes in the colony, and who, for the substantial civil and religious liberty he was to enjoy, was willing to accept the forms of the Fundamental Constitutions, especially when flattered with the dignity of a Landgrave under them. The Proprietors soon, however, found that Morton's principles inclined him to their opponents rather than to themselves. But in Landgrave Colleton they reposed entire confidence, expecting much from his talents and still more from his attachments. He built himself a fine mansion at old Charles Town, received from the Parliament an ampler support than had been enjoyed by former Governors, and, secure of the good will of the Proprietors through the influence of his brother, he no doubt looked forward to prosperity and happiness in the new home to which he brought his family. The Proprietors, indeed, had never been more faithfully represented.[1] It might have been better for them had Colleton's devotion to their interests less blinded him to that of the province, which was, in

[1] *Hist. Sketches of So. Ca.* (Rivers), 151.

fact, inseparable from their own. His instructions required him to punish the former Governor and officers for various offences, to execute the law against pirates with rigor, and to put down the faction consisting of men of various views and avowing different principles; "Sprang up as we are assured," said the Lords Proprietors, "as rampant as if the people had been made wanton by many ages of prosperity."[1]

The Proprietors, in their zeal to appease the Royal authorities, had sneered at the commerce of their province, and yet out of the seven acts passed during Colleton's administration before his rupture with the Parliament, five of them relate to the commerce of the place, indicating that notwithstanding all the troubles of the colony its business was steadily increasing. The acts passed were (1) "For servants hereafter arriving without indentures or contracts"; (2) "For the preventing seamen from contracting great debts"; (3) "For regulating the entryes of vessels," etc.; (4) "For the tryall of small and meane causes"; (5) "For the levying an assessment of eight hundred pounds"; (6) "To ascertain the prices of commodityes of the countryes growth"; (7) "To ascertain damages upon protested bills of exchanges."[2]

The last of these statutes was passed on the 23d of July, 1687. There were no other enactments during Colleton's administration, nor was there any other legislation for three years. During this time fierce contests distracted the several parliaments that were held. In 1687 a committee, consisting of the Governor, Paul Grimball and William Dunlop, deputies, Bernard Schenkingh, Thomas Smith, John Farr, and Joseph Blake, commoners, were appointed to consider whether the Fundamental Constitutions might be modified in any way to make them ac-

[1] Chalmers's *Pol. Ann.*, 323, 324.

[2] *Statutes of So. Ca.*, vol. II, 30–38.

ceptable both to the Proprietors and to the people. "The work grew voluminously," it was said, and was then abandoned amidst angry discussions; the people declined to regard any other set but that sent out with Governor Sayle in 1669.[1] At length Colleton, on the 14th of February, 1687–88, in some passion produced a letter from the Proprietors, dated March 3, 1686–87, in which they "utterly denied the Fundamental Constitutions of July, 1669, declaring them to be but a copy of an imperfect original." As the Proprietors manifestly did not know their own minds, the delegates of the people, naturally impatient and indignant at this trifling with their interests and their rights, and never having assented to any set as required by the charters, "*unanimously declared that the government is now to be directed and managed wholly and solely according to the said charters.*" They then went a step further and "denied that any bill must necessarily pass the grand council before it can be read in parliament." During two sessions the Governor and the deputies of the Proprietors insisting on proceeding according to the Fundamental Constitutions, and the delegates of the people refusing to do so, all legislative proceedings were blocked; not even the militia act was passed which was necessary for the safety of the colony. The delegates proposed, for the maintenance of peace

[1] Oldmixon, who was a tutor in Benjamin Blake's family, and had, therefore, excellent means of information, gives the names of the committee as stated in the text. He states that this committee "drew up a new form of government differing in many articles from the former to which they gave the title of *standing laws:* and *temporary laws* . . . But neither Lords Proprietors nor the people of Carolina accepted of them." The address to Sothell, which contains so admirable a summary of the history of the colony to its date, gives the account in the text, *for.* that the work was abandoned amidst angry discussion. Rivers has followed this account, and we have preferred to do so likewise.

and justice, to assent and approve any law as required by the direction of the Royal charter, but the Governor and deputies refusing to allow any to be acted upon until first passed by the Grand Council, nothing was done. Finally, in December, 1689, the Proprietors instructed Colleton to call no more parliaments without orders from them, "unless some very extraordinary occasion should require it." As the acts usually ran but for twenty-three months only, the consequence of these instructions was that in 1690 not one statute law was in force in the colony.[1]

The issue was now fairly made between the people, on the one hand, contending for constitutional government under the charter and the Proprietors, on the other, claiming to govern by arbitrary instructions uncontrolled even by the terms of the "unalterable" Fundamental Constitutions which they had sent out with the colony under Sayle. In the meanwhile there was no law in the province, and Colleton proceeded to govern by his own will. He attempted vigorously to exact payment of quit-rent for every acre whether under cultivation or not; he forbade all inland trade with Indians, in his avarice, as it was charged, to monopolize the benefit for himself; and he imprisoned and fined a clergyman £100 for preaching what he considered a seditious sermon.[2] To enable him to maintain his authority, he requested the Proprietors to appoint only such deputies as he knew would support his government. This led to an outbreak. Letters from England, containing deputations of the Proprietors obnoxious to the people, were seized and suppressed. The people imprisoned Paul Grimball, the Secretary of the province, and took possession of all the public records. The little community was in a state of rebellion, and every man acted as he

[1] *Hist. Sketches of So. Ca.* (Rivers), 152, 153; Appendix, 422, 423.
[2] *Ibid.*, 150.

thought proper, without regard to legal authority and in contempt of the Governor and other officers of the Proprietors.

In this emergency a number of the colonists were induced to sign a petition for the establishment of martial law, and without consulting the Commons, though his instructions from the Proprietors provided for his summoning them if an extraordinary occasion should require it, acting only on the advice of the deputies of the Proprietors, martial law was declared by Colleton at the head of the militia, who, ignorant of his purpose, had assembled under his call made upon pretence that some danger threatened the country. The members of the Assembly thereupon met without summons, and resolved that this proceeding of the Governor was an encroachment upon their liberties and an unwarrantable exercise of power at a time when the colony was in no danger from a foreign enemy. The Governor, however, persisted and attempted to put his martial law into execution, but the disaffection was too great to allow him to do so. Even the signers of the petition deserted him and declaring that they had been deceived, now joined in the cry against such an "illegal tyrannical and oppressive way of government." In the face of this Colleton quailed and shrank from the exercise of the power he had assumed. The courts were allowed to sit, and he attempted to exonerate himself on the ground that the delegates had refused to pass the militia act, and he feared an invasion by the Spaniards. The latter excuse was known to be unfounded; and to the former thirteen delegates replied, under oath, that they had proposed to pass the act. Indeed, as the people themselves constituted the only military force in the colony, this attempt to proclaim martial law was a great blunder as well as a political crime.[1]

[1] *Hist. Sketches of So. Ca.* (Rivers), 154, 155; Appendix, 424, 425.

The colony was verging upon anarchy when the arrival of one Seth Sothell who, as a Proprietor, claimed the government, put a new phase upon the commotions and overthrew Colleton's government, setting up one in its stead, which, in its turn, was repudiated by the Proprietors.

The course of events in England, in the meanwhile, had been rapidly tending to the great revolution of 1688, which drove James II from the throne; and on the 1st of March, 1688-89, the Proprietors forwarded to Carolina the order of council to proclaim King William and Queen Mary, and annexed the oath to be taken.[1] Nor were the other American colonies much freer from commotion than Carolina. The tyranny of Andros was producing throughout New England a powerful popular reaction in favor of their charter governments. The failure of Lord Baltimore's deputies to proclaim William and Mary gave an opportunity to the disaffected Protestants to incite a revolt which resulted in the overthrow of his Lordship's charter, and the establishment of a Royal government. Pennsylvania was torn by various internal disputes, chiefly the religious schism caused by George Keith, the Quaker, and Penn was also soon to be deprived of his governorship. Delaware, Virginia, New York, and New Jersey, as well as New England, were now governed under the King's commission. Yet the Proprietors of Carolina continued an uninterrupted control over their vast province, because, enjoying "the hereditary right of complaining in person of their wrongs, they could interest a powerful body in their favor."[2]

Sothell was a man of remarkable, if not of good, character and of great ability. He had been sent in 1680

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 122.

[2] *Hist. Sketches of So. Ca.*, 149, 150, Rivers quoting *Revolt Am. Col.*, 264.

to regulate the distracted affairs in the colony at Albemarle, and on his voyage out had been captured by Algerine pirates, three years thus elapsing before his arrival in America. He bore with him the certificate of his authority dated at Whitehall, September, 1681, which is important as declaring the views of the Proprietors to his right of government under the Fundamental Constitutions. It reads thus: —

"Whereas Seth Sothell hath bought the Earl of Clarendon's share in Carolina and is thereby become one of the true and absolute Lords Proprietors of the Province of Carolina and whereas by virtue of the Fundamental Constitutions *it is provided that the eldest proprietor that shall be in Carolina shall be governor* you are to obey him as such if there be no elder proprietor than himself."

Instead of settling matters at Albemarle, his administration there was so marked by selfishness and rapacity that the people rose, deposed and banished him.[1] He sought refuge in South Carolina, and arrived here just in time to take part in the disturbed condition of affairs in this colony. His right to the government under the Constitutions, which the Proprietors were upholding, was clear by their terms, and for this he also held the certificate of the Proprietors themselves. He was received with insult by the Governor's party, but welcomed by the people as a refuge from Colleton's tyranny. Andrew Percival, who had been Governor of the attempted colony on the Edisto, Muschamp, the King's revenue officer, Berresford, who had been clerk of the peace, Ralph Izard, and John Harris with five hundred of the best people petitioned him to issue writs for a Parliament.[2] This he did, as he had the

[1] All the wrongs and oppressions with which Hewatt charges him as having been committed in South Carolina, were really those for which he was driven out of the colony at Albemarle. Hewatt's *Hist. of So. Ca.*, vol. I.

[2] *Hist. Sketches of So. Ca.* (Rivers), 155.

right to do, if the Constitutions were of any force; but he followed this step up with another measure which was clearly illegal. He removed the deputies of the other Proprietors who were opposed to him and appointed Muschamp, Berresford, and Harris in their places.[1] The colony at Albemarle had banished him. His Parliament at Charles Town now banished Colleton. Himself a refugee from Albemarle, he becomes the expeller of others from Charles Town. Lieutenant Colonel Bull, Major Colleton, and Paul Grimball were disqualified for holding any civil or military office because they had acted with Colleton, and Thomas Smith because he had written the petition for the establishment of martial law.

The adherents of Colleton did not yield without a struggle. They could not, as supporters of the Constitutions, deny Sothell's right to supersede Colleton, — that was too plain by the letter of that instrument, which the Proprietors had been so insistent upon enforcing, — and Sothell had, moreover, their own written word for his right to do so. But they demanded that before assuming office he should declare his approval of the Proprietors' instructions as a rule of government. Placards were posted in public places charging him with treason and calling upon the people to withhold their obedience to his authority.

The Lords Proprietors, with their usual vacillation and faithlessness, abandoned Colleton. Before hearing of Sothell's assumption of the government, they had, on the 6th of October, 1690, appointed Thomas Smith Governor. But in May they had heard that Sothell was at Charles Town and had taken upon himself the administration, and they write that they are well pleased that he will submit to their instructions for the government. They hope he is too wise a man to claim any power but by virtue of

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 127.

them; for, they go on to observe, in direct contradiction to their own declaration held by Sothell, that no single Proprietor by virtue of his patent had any right to the government or to exercise any jurisdiction unless especially empowered by the rest.

Hewatt and other writers have spoken of Sothell as an usurper,[1] but such he certainly was not under the Fundamental Constitutions, which the Proprietors persisted in maintaining to be of force. By these it was expressly provided that "the eldest of the Lords Proprietors who shall be personally in Carolina shall of course be the Palatine deputy," and if no Proprietor be in Carolina, nor heir apparent of any, then "the eldest man of the Landgraves."[2] Under this clause, as we have seen in the last chapter, the Proprietors, in 1684, objected to the selection by the Council of Colonel Quarry as Governor upon the death of Kyrle, because the government belonged of right to Morton as the eldest Landgrave in the province at the time, there being then no Proprietor present. So again we shall see them excusing themselves, in 1699, for not having obtained the approval of the Royal Government to Blake's appointment as Governor upon the ground that Blake did not exercise the office by virtue of appointment, but by virtue of his proprietorship. And Sothell now held their certificate or warrants that he was to be recognized and obeyed, because, by the Fundamental Constitutions, "it is provided that the eldest proprietor that shall be in Carolina shall be governor." The colonists might have objected to this commission, as they did not recognize the Fundamental Constitutions: but if they waived that point and accepted him under the letter or certificate which he held from their Lordships without regard to the reason assigned, it certainly did not lay with the Proprietors to object. The

[1] Hewatt's *Hist.*, vol. I, 103. [2] *Statutes of So. Ca.*, vol. I, 50.

point the Proprietors made was that no Proprietor could act as Governor without the assent of the others, but it was not so written, and until the Constitutions were formally altered they remained the law, at least for them. The affair presents still another instance of the instability and insincerity of all parties. Here we have the Proprietors denying the provisions of their favorite laws, and the people, who had so long been resisting, now for their immediate purpose standing upon them, because for the time they served their interest.

The Proprietors were wise enough, however, for the present not to make the issue, but summoned Sothell to return to England and answer to all the charges against him from both colonies. Sothell did not obey the summons, but continued to act as Governor for eighteen months longer. Finally, in November, 1692, the Proprietors in England wrote to him that he should cease to rule and commanded him to yield obedience to Colonel Philip Ludwell, whom they had commissioned to succeed him. For reasons of his own, he having now offended the people who had sustained him, he yielded to the demand and left the colony.

Whatever may have been Sothell's private character, however avaricious and disreputable, however tyrannical and oppressive his conduct for personal gain, yet the wisdom and liberality of the laws he enacted, the legislative activity displayed in restoring stability to the colony, and his judicious conduct in promoting the just wishes of the people, throw a doubt, observes Rivers, as to the malignant character that had been ascribed to him as a public officer. He it was who had the wisdom to see the usefulness and noble character of the French and Swiss, who were now coming into the province in considerable numbers and filling up waste places in Craven County on the Cooper and

Santee, which were soon to blossom as the rose under their skilful and laborious cultivation; and the first to constitute them citizens as free born in the colony, and of equal rights with the other settlers.

So, too, under his administration, the first act for the government of negro slaves was passed. This act followed generally the Barbadian slave code; but, in more than one respect, it was an improvement upon that law, especially in providing for the punishment of any one killing a slave. It provided, also, for the slaves' comfort, and required that they should have convenient clothes.[1]

Sothell yielded to Ludwell, and returned to his estate in North Carolina, where he died in 1694; and it is said that much of the wealth he had accumulated there was recovered by those from whom he had unjustly taken it.

[1] *Statutes of So. Ca.*, vol. VII, 343.

CHAPTER XI

1692-94

Colonel Philip Ludwell had been secretary to Sir William Berkeley, Governor of Virginia, and had taken an active part with him in the suppression of Bacon's Rebellion. He had been the hero of Bland's capture; and, after Sir William's death, had married Dame Frances, the widow of that fiery cavalier.[1] In 1689 he had been appointed Governor of all that part of the province of Carolina that lies north and east of Cape Fear, to supersede Sothell at Albemarle.[2] Although the titles of North and South Carolina now began to be used in some official papers, there was no such division of the province at this time; on the contrary, the Proprietors were now attempting a plan of consolidating the two colonies into one government for the whole province.[3] On the 2d of November,

[1] Ludwell was the third husband of Dame Frances. This lady had the singular fortune of being the wife of three Governors in succession. Her first husband was Governor Samuel Stephens of Albemarle; her second, Sir William Berkeley, Governor of Virginia; her third, Colonel Philip Ludwell, now Governor of Carolina. Hawkes's *Hist. of No. Ca.*, vol. II, 447.

[2] *Colonial Records of No. Ca.*, vol. I, 362.

[3] Commissions of Governors of North Carolina usually ran as stated in the text; those of South Carolina ran, "of that part of the province which lies south and west of Cape Fear." So the enacting words of statutes of South Carolina usually were in the names of the Palatine and the rest of the Lords Proprietors "by and with the advice and consent of the rest of the members of the General Assembly now met at Charles Town *for the South West part* of this province." This was the usual form after 1690, but sometimes the word "province" only was used.

1691, Ludwell's commission was changed from that of Governor of the territory to the north and east of Cape Fear, to that of Governor of Carolina, and he was directed to issue writs for the choice of twenty delegates for the freemen of Carolina, — five for Albemarle County, five for Colleton County, five for Berkeley County, and five for Craven County, — to meet in such place and at such time as any three or more of the deputies should appoint. The bounds of these counties were defined as follows:[1] Albemarle County was restricted to the small but well-settled district between the Roanoke River and Virginia; Craven County occupied all the great extent of territory from the Roanoke to Sewee Bay; Berkeley, that between Sewee Bay and the Edisto, and Colleton County between the Stono and Combahee. By additional instructions, however, Governor Ludwell was directed that if he found it impracticable to have the inhabitants of Albemarle send delegates to the General Assembly held in South Carolina, he was then to issue writs for seven delegates to be chosen for Berkeley, seven for Colleton, and six for that part of Craven County that lay south and west of Cape Fear; and he was empowered to appoint a Deputy Governor for North Carolina.[2] With these instructions, original and additional, there were sent also another set of private instructions with minute directions to inquire into the mismanagement of former Governors and the grounds of popular complaint. He was to inquire into the charges made by Percival, Quarry, Izard, Muschamp, Harris, and Berresford against Governor Colleton; to make inquiry as to the alleged killing of several Indians, and, if proved, to have the guilty persons indicted and punished; to inquire by what authority Berresford had acted as deputy, and whether Sothell had refused to allow deputies of the

[1] *Colonial Records of No. Ca.*, vol. I, 373. [2] *Ibid.*

Proprietors to act; by what authority Robert Quarry sat as judge or sheriff of Berkeley County; and to restore Bernard Shinkingh as chief judge of same.[1] If he found the numbers of offenders in the late disorders to be so many that it might be inconvenient to punish them all, he was then to grant pardon to all except such as had been guilty of high treason and murder. He was to proceed, however, against some few of the most notorious and obstinate offenders, against whom the proof of crimes was plainest. He was to encourage people to reside at Savannah town,[2] or any other place among the Indians; to suffer all people to trade with the Indians. He was to make strict inquiry if Mr. Sothell had granted any commission to pirates for reward or otherwise; and was informed that "Jonathan Emery" knew about such transactions, and had received twenty guineas for procuring a commission from Sothell. The Proprietors informed Ludwell they had given power to their trustees to sell certain lands to such persons as should first have paid the purchase money in pieces of eight, after the rate of five shillings the piece of eight, etc.[3]

But Ludwell, notwithstanding the friendship of the Proprietors and his desire to harmonize the distracted state of the colony, entered upon his administration with no increase of power or promises of reform. "Employ no Jacobite," the Proprietors wrote on the 12th of April, 1693; "beware of the Goose Creek men: reconcile yourself to our deputies; don't expect to carry on the government with all parties; convince the people that the grand

[1] To what this instruction alludes we have not been able further to ascertain.

[2] Afterwards the site of Fort Moore on the Savannah, near where Augusta now is. Not the site of the present city of Savannah.

[3] *Colonial Records of No. Ca.*, vol. I. 381-384.

council has power by the constitutions to pass upon all bills before they can be submitted to parliament."[1]

Notwithstanding the political turmoil which had continued without cessation in the colony from its commencement, its population was steadily, if not rapidly, increasing. The Huguenot immigration in Craven County and other settlers in Colleton were peopling those counties to a considerable extent; still Berkeley was by far the most thickly settled, and the inhabitants took further offence at this new and, as they regarded it, still more unjust disproportion of representation in the Assembly now called by Governor Ludwell under his instructions.

Colleton County with its new and smaller population had, under Governor Morton in 1683, been given equal representation with Berkeley, and now Craven with still fewer inhabitants, and those not even Englishmen, was given nearly the same. This created a new ferment. "Shall the Frenchmen," said the English colonists, "who cannot speak our language make our laws?" The flame of national animosity was kindled against those whom they had welcomed with kindness, and whom the officers of the Proprietors had been instructed to befriend. Me-

[1] *Hist. Sketches of So. Ca.* (Rivers), 160; *Coll. Hist. Soc. of So. Ca.*, vol. I. 131.

"Goose Creek Men," a paper purporting to be an assessment of the *Parish of St. James*, Goose Creek, for January, 1694, is given by Mrs. Poyas, the "Octogenarian Lady," in the *Olden Time in Carolina*, p. 36. This is an anachronism, inasmuch as the parish was not established until 1704. The table of assessment, however, gives a list of the taxpayers on Goose Creek, *i.e.* the "Goose Creek men," of whom the Proprietors were so afraid, from which we take the following: Thomas Smith, of Back River; Edward Hyrne; Thomas Smith, son of Landgrave; Colonel James Moore, Captain George Chicken, Captain Arthur Middleton, Captain Benjamin Schenckingh, Peter St. Julien, Benjamin Godin, Mr. Mazyck, Henroyda Inglish, and Captain John Neve. This list, however, is certainly not complete, for no mention is made of several of the most conspicuous of the planters in that settlement, *i.e.* Robert Gibbes, Ralph Izard, etc.

morials were addressed to the Governor to dissuade him from permitting the French to have seats in the Assembly. The severities of the alien law of England were threatened against them and their children. Their marriages and their property were held equally without the respect and protection of the laws.[1] Hewatt states that not a single representative was allowed from Craven in the election held under Governor Ludwell's call,[2] but this is a mistake: the journals show six members, all Huguenots, were returned and took their seats.[3]

The Parliament thus organized, however, was not more subservient to the Proprietors than the former had been. As soon as the new Assembly met in September, an address was sent to Ludwell requesting "an act of free and general indemnity and oblivion, and a confirmation of all judicial proceedings in the late government" as essential for the prosperity of the colony and the efficiency of any law that might be made for the good of the people. The necessity for some such measure had been recognized by the Proprietors in their instructions to the Governor; but while offering a general pardon, they had excepted not only those guilty of high treason and murder, but had also directed proceedings against "some few of the most notorious and obstinate offenders" as to "whom the proof was plainest," which was understood really to mean that all

[1] *Hist. Sketches of So. Ca.* (Rivers), 176.

[2] Hewatt, *Hist. of So. Ca.*, vol. I, 113.

[3] The members of the Assembly were as follows: From *Berkeley County:* Major Benjamin Waring, James Moore, Esq., Ralph Izard, Esq., Mr. John Ladson, Mr. John Powis, Mr. Jonathan Amory, Mr. Joseph Pendarvis. From *Colleton County:* Robert Gibbes, Esq., William Davis, Esq., James Williams, Esq., Mr. Daniel Courlis, Mr. James Gilbertson, Mr. Joseph Ellicot, Mr. James Stanyame. From *Craven County:* Alexander Thette Christainer, Esq., John Boyd, Esq., Paul Bonneau, Esq., Mons. [illegible] Rainaud, Mons. John Gendron, Mons. —— Lebas. *Commons Journal* (MSS.).

the leaders against whom evidence could be obtained were to be indicted. Ludwell could not under these instructions grant the general pardon asked for; nor does his reply, observes Rivers, indicate the mildness of disposition generally attributed to him.[1] He called upon the Assembly, as the house of representatives now began to be called, to look to their journals and to judge what clemency could be demanded. In a rambling and incoherent style he thus addressed the Speaker: —

"We are unwilling Mr. Speaker to believe that address had due and mature consideration in the house, being unable to comprehend those double locks and bars viz.: indemnity from and confirmation of all the judicial proceedings that past in the last government."

In the same confused manner he went on to say that he could not imagine the meaning "of the two fortifications" *i.e.* indemnity and confirmation —

"For certainly on the part of any of the activist or cruelists persons in the last government, neither lock nor bar will be needful; they need do no more than stand in the open street with the gracious concession in their hands, which being shown, must like Medusa's head kill all the opponents that behold it. And how far then an act of indemnity will shroud those whose properest interest it will be to seek it by this fatal turn of the tables, or how or where they will obtain it we know not; but do guess you well know (your last demand being granted) it must be on the part of those who were the eminentest sufferers in the last government to beg it to secure their all ready half-cut throats from the other slash; for our part we cannot possibly see what can be ascribed to us (whose own throats by the way must be exposed among the rest) but by a mistaken act of mercy to confirm, may heighten all the cruelties of the last government! Is this to be the way to establish peace and safety on either part. Mr. Speaker we must own we understand it not."

The Assembly replied, explaining their address, a misunderstanding of which they supposed had caused his Honor's "strange style." They repeated their request.

[1] *Hist. Sketches of So. Ca.* (Rivers), 162.

Ludwell, on his part, offered an act in accordance with the instructions he had received. The Assembly would accept this only with alterations, and he could not accede to their alterations, but proposed that they should accept the indemnity as from him and the deputies for what it was worth, and prepare on their part a representation of their grievances to the Proprietors. His indemnity was unanimously declined; but a statement of their grievances was prepared by the Assembly. This paper, which was signed by Jonathan Amory, Speaker, presents very clearly the issue between the Proprietors and the colonists.[1] (1) The first grievance stated was in regard to the form of conveyancing of land — all the Proprietors had not agreed to the same form, and the latest form, *i.e.* that by indenture instead of simple patent, was not satisfactory to the people. (2) The Receiver of Rents had not been commissioned by all of the Proprietors, so there was no one authorized to give a full acquittance and discharge to the purchasers and tenants. (3) That the offices of Sheriff and Judge of Pleas were lodged in one and the same person. (4) That although by the charter the power of erecting courts was in the Proprietors, yet the courts ought to be regulated by laws made by the assent of the people. (5) That the public officers were allowed to take much greater fees than were allowed by act of Parliament in England for the same and like services. (6) That the representatives or delegates of the people were too few in the Assembly, and that the people were not allowed to determine the number of their delegates according to the King's most gracious charter. (7) They objected to the two Palatine courts — one in England and one in Carolina. They complained that one made void what the other enacted — thus of late several

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 433–435.

acts of the Assembly had been repealed by the Palatine Court in England, which had been ratified by the Palatine Court in Carolina. That their Lordships' deputies in Carolina should be fully empowered to give their assent to laws and acts by the people. (8) That the Palatine Court in Carolina assumed to put in force such English laws as they deemed adapted to the province; but the Assembly conceived that either such laws were valid of their own force, or could only be made so by an act of Assembly. (9) That inferior courts had taken upon themselves to adjudge and determine the power of Assembly or the validity of acts made by them and of matters and things relating to the House of Commons. This the Assembly conceived to be without the jurisdiction of such courts: and only inquirable into and determinable by the next succeeding General Assembly. (10) The setting up of martial law (except in cases of rebellion, tumult, sedition, or invasion) they conceived not warranted by the King's charter. (11) They objected to the taking of bonds or writings obligatory not authorized by law. (12) They represented the want of a competent number of commoners to represent them in Council. (13) They complained of the refusal of an act of indemnity and confirmation till their Lordships' pleasure should be known. (14) The last clause of this presentment, which was added in September, 1693, complains of a grievance which was to outlast the Proprietary, and to continue under the Royal Government until that too was overthrown. This was the requirement that no important measure was allowed to be put in force until their Lordships' consent could be obtained from England, which could never be in less than a year, and which in fact often delayed measures for two years; so that it sometimes happened that the occasion or reason for the enactments had passed before they were acted upon in England.

This paper is a most interesting one, presenting as it does probably the first instance of a petition, or Bill of Rights, drawn in America. It is the more so, too, because it is one based upon rights claimed under a written constitution. It is a presentation of the rights claimed by the people under the letter of the charter of the province.

The objections presented by it to the form of conveyances presented by the Proprietors; to the want of proper authority in the Receiver of Rents; to the improper exaction of fees by public officers; to the requirement of bonds not authorized by law, — were matters which, though of no small importance to the people, were, nevertheless, in the nature of temporary inconveniences, abuses rather of the law itself than of its authority. The vesting in the same persons of the judicial and executive functions of Judge and Sheriff, though doubtless most objectionable, was still more a matter of convenience than of constitutional right, the remedy for which properly lay in the sound judgment of the lawmaking power wherever that was reposed. The demand for indemnity for acts done under Sothell's administration, though just and reasonable, was a matter of personal and temporary character. But the other complaints were fundamental and involved the prerogatives of the Proprietors on the one hand, and of the rights and liberties of the people on the other. These objections extended not only to what the Proprietors prescribed by their constitutions and instructions; but to their right to make any such prescription without the assent of the people. It was a far-reaching demand which the Assembly made when it claimed that though by the charter the Proprietors were authorized to erect courts, yet the jurisdiction of the courts and the laws regulating them could only be made with the assent of the people. The power to regulate and control the courts is the power to prescribe

the law. For of what use was the provision of the charter insuring to the people that no laws could be made without their assent and approbation, if the Proprietors could without such assent set up courts to pass upon the validity of laws and to construe them? So, too, they denied the right of the Proprietors to prescribe the number of the representatives of the people without consultation with them. They objected to the two Palatine courts, one in England and one in America. The charter provided for a government of the province in America. It did not provide for one in England. The Assembly well argued that if the laws of England were applicable to the province, they were so *proprio vigore* and needed not the sanction of the Palatine Court; but if they were not applicable by their own inherent force, they could only be made so by the act of the Assembly. It is curious to observe that among the grievances of which the Assembly complain is that inferior courts had taken upon themselves to adjudge and determine the power of the Assembly, and of the validity of acts made by them. So it appears that at this early day the courts of Carolina were assuming to pass upon the constitutionality of laws. They were, it is true, now doing so in the interest of the Proprietors as against that of the people; but whatever its present purpose and inspiration, it was an important step taken, though unconsciously, in the direction of liberty, when courts began to inquire into the authority of the laws themselves. Because, however its immediate purpose was to condemn the Assembly which refused to act with Colleton, the people at that time failed to recognize the advantage which would accrue to them by such a precedent.[1] The Assembly well protested against the great

[1] The questions as to the origin of the judicial power exercised by the courts of the United States — State and Federal — to declare void uncon-

inconvenience and wrong of postponing the enactment of measures until leave could be obtained from England. We shall see the same cause operating most disastrously under the Royal Government, preventing the establishment of courts to meet the necessities of the increasing population.

It happened that while the Assembly was engaged in preparing this paper in Carolina, the Proprietors were considering the same subject in England, but with no purpose to grant the desired relief. On the 8th of November, 1692, they write to Ludwell withdrawing the power they had the year before given him to allow such legislation as might be thought necessary for the better government of the province, to continue in force for two years with the assent of himself and of the deputies. They repeal and make void all changes in the laws relating to the courts, magistrates, sheriffs, juries, or elections made under Sothell, and direct that all bills relating to such matters and consented to by the Governor and deputies should be transmitted to them, to be considered and passed upon in England before

stitutional acts of the legislature, and as to the first instances in which it was exercised, have of late given rise to much discussion. The earliest instances hitherto adduced having been one by a court in Rhode Island, which held the "forcing act" unconstitutional in 1786; and one by a court in North Carolina, which set aside an act affecting trials by jury in 1787, and the famous case of *Marbury* v. *Madison*, Sup. Ct. U. S., in 1803. See "Origin and Scope of the American Doctrine of Constitutional Law," Professor Thayer, *Harvard Law Review*, October, 1893; "An Essay on Judicial Power and Unconstitutional Legislation," Brinton Coxe, *Am. Law Review*, March and April, 1885; McMaster's *Hist. of the People of the U. S.*, vol. I, 337–339; *The Nation*, vol. LVII, Nos. 1474, 1475, 1477, 1484, 1506. But here we find the colonists in South Carolina objecting to the exercise of such a power by inferior courts under the Proprietary Government a hundred years before. It is to be regretted that we have no record of these courts, nor do we even know how they were constituted and who presided in them. Indeed, we have no record that there was a professional lawyer in the colony at the time.

published as law in Carolina.[1] They, however, sent out under their "great seal" a general pardon to the people of Carolina (James Moore and Robert Daniel being excepted) for all crimes and offences "committed prior to the publication of Ludwell's commission in hopes that in time to come it may beget a firm resolution to become strict observers of the laws." Unhappily, there was an unaccountable delay in announcing this pardon to the people.[2]

The issues were thus becoming more and more sharply defined between the Proprietors and the colonists; and in the struggle the colonists were steadily gaining. They had overthrown and banished one Governor — Colleton. They had compelled the Proprietors to recognize Sothell and to allow his administration, thus setting aside Smith, whom the Proprietors had nominated as Governor, and had maintained Sothell until his rapacity and oppression had turned them against him. They were now managing Ludwell, notwithstanding his instructions from their Lordships.

Though during the next thirteen years we shall find further attempts to impose the Fundamental Constitutions upon the people, the Proprietors now began to recognize that they could never be enforced, and this they secretly admitted to Ludwell. They privately wrote to him that as Mathews, who claimed to be empowered by the people, assured them that they would not own those laws, they had made his instructions as Governor "*suitable to our charter.*" A still greater concession was rendered necessary when Ludwell's Parliament appointed a committee to frame a "system of government." This, indeed, the

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 435, 436.

[2] *Hist. Sketches of So. Ca.* (Rivers), 163; *Coll. Hist. Soc. of So. Ca.*, vol. I, 130.

Proprietors appear to have accepted as a formal rejection of the Constitutions and wrote to Ludwell that as the people had rejected "the excellent system of Locke," they had therefore "thought it best both for them and for us to govern by all the power of the charter, and will part with no power till the people are disposed to be more orderly." This reluctance and reservation, however, were expressed to Ludwell alone, while publicly it was announced, "that as the people have declared they would rather be governed by the powers granted by the charters without regard to the Fundamental Constitutions it will be for the quiet and the protection of the well disposed to grant their requests." [1]

In the meanwhile the Parliament, *i.e.* the Governor, Council, and Assembly, in October, 1692, had passed several important measures. Three of these related to the courts. One empowered magistrates, justices, and others to execute the *habeas corpus* act of Charles II; another provided for the drawing of jurymen in all causes, civil and criminal; and another for the trial of small and mean causes. Disregarding the provisions of the Fundamental Constitutions as to the qualification of voters for members of the Assembly, an act was passed giving the privilege of voting to any person otherwise qualified who was worth ten pounds, without reference to the time of his residence in the colony.

In regard to the *habeas corpus* acts, the Proprietors assumed that all laws of England applied to the colonies, and held that it was not necessary, therefore, to reënact that famous statute in their provinces. They disallowed the act purporting to do so. The doctrine that the laws of England were not of force in the colony they declared erroneous. "By those gentlemen's permission that so say,"

[1] *Hist. Sketches of So. Ca.* (Rivers), 164.

wrote the Proprietors, "it is expressed in our grants from the crown that the inhabitants of Carolina shall be of the King's allegiance: which makes them subject to the laws of England."[1] But the subject was not disposed of so easily. It was one full of difficulty. The question had been one of great doubt, and puzzled the lawyers of England.

The theory of the law was that where an uninhabited country was discovered and planted by English subjects, all laws in force at home became at once applicable; but in the case of an inhabited country conquered, not until declared so by the conqueror.[2] The trouble was to determine as to which category the English dominions in America belonged. Hilton, Sayle, and Sandford had, it is true, each sailed upon voyages of "discovery"; but the country had been discovered long before, and, indeed, partial attempts had been made to settle it. The Spaniards claimed Carolina as part of Florida, upon which they had an established settlement at St. Augustine. Great Britain could scarcely claim, therefore, by virtue of discovery. Could she do so as of conquest? And if so, conquest of whom — Spaniards or Indians? Surely not of the Spaniards, for peace nominally reigned at the time of the grant of charter by King Charles II. Could she claim

[1] *Hist. Sketches* (Rivers), 161.

[2] *Blankard* v. *Galdy*, Salkeld, 411; *Rex* v. *Vaughn*, *Burrows's Reports*, vol. IV, 2500. This most important and delicate question was to remain a subject of constant controversy, not only in the American colonies, in the Islands, and on the Continent, but in Ireland as well. It lay at the root of the differences between American colonies and the mother country in regard to the navigation laws and the stamp acts, and the news of the surrender of Lord Cornwallis found Flood and Grattan engaged in the Irish Parliament in the old discussion as to the effect and validity of Poynings's law, which rendered Ireland amenable to English statutes. *England in the Eighteenth Century* (Lecky), vol. IV, 466–570; *Leaders of Public Opinion in Ireland* (Lecky), 85.

the territory as of conquest from the Indians? The Proprietors were pretending, at least, to purchase the lands from them.

The question had been raised and discussed in the last year of the reign of Charles II, but had not been definitely decided.[1] It was, therefore, still an open one when so dogmatically decided by the Proprietors: and from their position they were obliged ultimately to recede when, in 1712, under the administration of Craven, they allowed and approved the act adopting the common law and such statutes of England as were deemed applicable to the condition of the province. Indeed, among others, they sanctioned the adoption by the Assembly of South Carolina of the very act they now so wisely reproved the colonists for passing.[2] And it was well that they did so, for some years after, in a case coming from Jamaica, Lord Mansfield held that no act of Parliament made after a colony is planted is construed to extend to it without express words showing the intention of the legislature to be that it should.[3] The *habeas corpus* act of Charles II, Shaftesbury's greatest work, by which personal liberty has been more effectually guarded in England and America than it has ever been in any other country in the world, was not enacted until thirteen years after the second charter of Carolina.

The act providing for the drawing of juries which the Proprietors disallowed is lost. It has been supposed that it was the origin of the admirable jury system which has ever since substantially prevailed in South Carolina, if not

[1] *Davis* v. *Sir Paul Pindar*, *Modern Reports*, vol. II, 45.

[2] See *post*, *Statutes of So. Ca.*, vol. II, 401.

[3] *Rex* v. *Vaughn*, *Burroughs's Reports*, vol. IV, 2500; Blackstone's *Com.* (Sharswood's ed.), vol. I, 108, note; Jacob's *Law Dictionary*, title "Plantation."

from this precise time, from some very near period.[1] The first extant act upon the subject is that of 1731;[2] but this act does not purport to originate the system. It is entitled an act "*confirming and establishing the ancient and approved method of drawing juries by ballot.*" The plan was certainly, therefore, in existence prior to 1731. It has been ascribed to Thomas Smith, the Landgrave.[3] By this system jurors were not selected by the sheriff, as is usually done elsewhere, but the names of all the freemen in the province having been taken on small pieces of parchment of equal size, they were put into a ballot box and shaken so as to be thoroughly mixed; whereupon at every court before it rose twenty-four names were drawn from the box by a boy under ten years of age; and from these names, put into another box, twelve names were drawn by another boy under the same age. The persons whose names were so drawn were summoned to appear at the next term of the court. If any were challenged, the boy continued drawing until the jury was full. By this system, the packing of juries by corrupt sheriffs was rendered well-nigh impossible. The system has been modified from time to time as to the qualification of jurors and as to the manner of forming the lists; sometimes it has been by the court, sometimes by the legislature, sometimes by specified officers or jury commissioners, but in its main features it has been preserved until this day.

The act of 1792, however, is not to be found, and its terms can only be known from the reasons assigned by the Proprietors for disallowing it; and from these it can scarcely be believed that the act disallowed contained

[1] *Hist. Sketches of So. Ca.* (Rivers), 101, note. Hewatt speaks of the system as according to article of the Fundamental Constitutions (vol. I, 114), but in this he is mistaken. There is no such provision in those laws.

[2] *Statutes of So. Ca.*, vol. III, 274.

[3] *Hist. Sketches of So. Ca.* (Rivers), *supra.*

such excellent provisions; indeed, they strongly imply that, on the contrary, the sheriff, under its terms, could name as jurors what persons he chose. One of the objections to the acts was that it required the sheriff of each county to divide all the persons of his county into sets of twelve, and to draw two papers of twelve names each for jurymen for the next court.[1] This plan they thought unreasonable and dangerous, as the sheriffs might so "divide the twelve for each paper that there might be in every paper some notorious favorers of *pyrates*," who could prevent their punishment. They disallowed the act.[2]

The Proprietors also disapproved the act regulating elections; not because of its violation of the Fundamental Constitutions, — those they, at least for the present, tacitly abandoned, — but because they alleged it was so loosely drawn that any one might be admitted to vote for members of the Assembly who was worth ten pounds, regardless of the length of his residence in the province; indeed, it was so loose, they said, "that all the *pyrates* that were in the ship that had been plundering the Red Sea had been qualified to vote for representatives in Carolina."[3]

These allusions by the Proprietors to pirates have been made the foundation of renewed charges against the colonists of Carolina for countenancing these enemies of the human race, if not of actual complicity with them. Hewatt charges that the gentleness of the government towards them and the civility with which they were treated were evidences of the licentious spirit which prevailed in the province: that, by their money and freedom of intercourse with the people, the pirates so ingratiated themselves into public favor that it was no easy matter to bring them to trial, and dangerous to punish them as they deserved.

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 436.
[2] *Ibid.* [3] *Ibid.*, 437.

The courts of law, he states, became the scene of altercation and confusion: that bold and seditious speeches were made from the bar in contempt of the Proprietors and their government; that, as no pardons could be obtained, the *habeas corpus* act was passed, and that hence it happened that several of the pirates escaped, took up their residence in the colony, and purchased lands; and that finally the Proprietors granted an act of indemnity to all except those who had been engaged in plundering the Great Mogul, most of whom found means of making their escape out of the country.[1] Ramsay, who, as usual, follows Hewatt without further investigation, amplifies the charge. "The courts of law became," he says, "the scene of altercation and confusion. The gold and silver of pirates enlisted in their behalf the eloquence of the first gentlemen of the bar, too many of whom held that every advantage, though at the expense of honor, justice, public good, and even truth, should be taken in favor of their clients. Hence it happened that several of the pirates escaped, purchased lands, and took up their residence in the colony."[2] No foundation whatsoever can be found in the records of the time, further than the brief allusions which we have quoted, for these extraordinary charges. They are gratuitous and bear on their face their own refutation. It is not known that there was a single lawyer in the province at this time, and not probable that there could have been one who, in these stirring times in this small community, is not even mentioned. There were, therefore, no "first gentlemen of the bar" to degrade themselves as Ramsay charges. But the absurdity of the charge will more fully be appreciated when we remind the reader that by the law of England at that time, at the time when Hewatt wrote, at the

[1] Hewatt's *Hist. of So. Ca.*, vol. I. 116–117.

[2] Ramsay's *Hist. of So. Ca.*, vol. I, 200.

time when Ramsay wrote, and for years after counsel were not allowed the accused in criminal trials. It was one of the anomalies of the English law against which Sir William Blackstone protested (1765),[1] and which remained unremedied until 1836.[2] The charter had given the Proprietors power to make war upon "pirates and robbers" as public enemies: this did not confer upon them jurisdiction of piracies generally. Hewatt, the historian, has doubtless confused the incidents in regard to the pardon and indemnity demanded by the people growing out of Colleton and Sothell's administrations with those relating to the pirates.

The charges against the colonists of Carolina in this matter are no more consistent than just. They are accused on the one hand of enacting a jury law, by the provisions of which pirates might escape conviction; and on the other of bringing over the English *habeas corpus* act to rescue any that the juries might convict, and this because the Governor would not pardon except so far as authorized by the Proprietors.[3] This accusation involves the Proprietors in England as much as it does the colonists in Carolina; for it implies that the judges and magistrates appointed by the Proprietors would protect the pirates if the juries did not, and discharge them on *habeas corpus*. The truth is, that neither the Proprietors nor their Governor had any jurisdiction over piracy on the high seas, and no power to discharge or pardon. Piracy is an offence against the law of nations, and by the common law of England, when committed by a subject, a species of treason, and until the Statute 28 Henry VIII was cognizable only in the Courts of Admiralty.[4] The Statute of Henry VIII had not yet

[1] Blackstone's *Com.*, vol. IV, 355.

[2] *Encyclopedia Britannica*, title "Criminal Law," Edmund Robertson.

[3] Hewatt's *Hist. of So. Ca.*, vol. I, 116.

[4] Blackstone's *Com.*, vol. IV, 71.

been made of force in the province. We shall see in a controversy over the succession to Governor Blake, in 1700, that it was maintained that the charter did not empower any officer of the Proprietors to try persons for acts committed out of their dominion, and that hence a Royal commission was necessary to a judge in admiralty.[1] The government in England had, therefore, required the passage of acts in the colonies providing commissions in admiralty; and his Majesty on the 22d of January, 1687, had issued his proclamation of pardon to all who would come in and accept its terms.[2] It was not, therefore, the Proprietors who granted the indemnity to these people, as Hewatt asserts, but King James. The government in England had required the passage of acts providing commissions in admiralty, but as yet it had appointed no Vice Admiral or prosecuting officer.

Piracy, it is true, by international law is an offence against all nations and punishable by all; and pirates may be pursued in any country where they may be found without regard to the question on *whom* or *where* the piratical offence has been committed.[3] This we shall see to be the law announced by Chief Justice Trott in the famous case of Stede Bonnet in 1718, in a charge which is quoted by law writers as correctly laying down the rule.[4] But supposing the courts of Carolina common law and admiralty to have been fully organized, could this feeble colony, struggling yet for its own existence, have been expected to take upon itself the vindication of the law of nations because pirates of the Red Sea happened to be shipwrecked on the coast of the province? The criticism of the con-

[1] See *post*.

[2] *Public Records of So. Ca.* (MSS.).

[3] Kent's *Com.* (12th ed.), vol. IV, 186.

[4] *Phillimore on International Law*, CCCLVI.

duct of the Carolinians in this matter, it must be remembered, relates to the first thirty years of the colony; there is no question of the vigor of their efforts against the pirates after that time. The colonists of Carolina have been held by historians to an accountability in the matter altogether unwarranted by the circumstances in which they stood. There is no reason to suppose that the jury law and *habeas corpus* act were at all connected with that subject.

As before observed, it was well known that the whole southern coast of America and the West India Islands were infested by pirates before any settlement was attempted in Carolina. The charters of the province refer to *pirates* and Indians as the enemies in particular with whom the colonists would have to contend. The relation of the early settlers was the same to one as to the other. They looked with dread upon both, and no doubt met the one and the other alike with conciliation or resistance as their necessities demanded or their circumstances warranted. It was not until 1687 that the British Government itself made any practical effort for the suppression of piracy. During the period of open war between England and Spain letters of marque and reprisal had been freely issued, nor was much inquiry made to ascertain whether the buccaneers and privateers had taken the trouble to obtain the authority of such commissions. Charles II. upon his restoration, ordered that every encouragement and protection should be given these adventurers; nor did his Majesty disdain himself to become a partner in the buccaneering business. One of the causes of the difference which existed between Clarendon and Lord Ashley, two of the Proprietors of Carolina, arose out of this matter. Clarendon was opposed to the employment of privateers. Once they were countenanced, he said,

they brought unavoidable scandal and a curse upon the justest war. "A sail! A sail!" he declared, "is the word with them. Friend and Foe is the same. They possess all they can master, and run with it to any obscure place where they can sell it, and never attend the ceremony of an adjudication." But Ashley, on the other hand, having secured the appointment of Treasurer of Prize Money, encouraged his Majesty in their maintenance.[1] Once the taste for such a life had been acquired and the profits of it experienced, it required more than a formal declaration of peace to dissolve these roving bands and put an end to their plunder. It is, indeed, related that King Charles himself continued to exact and receive a share of the booty even after he had publicly issued orders for the suppression of this species of hostility. As before mentioned, Henry Morgan, the most famous of the buccaneers, was knighted by his Majesty and made Deputy Governor of Jamaica, doubtless in a measure from the good understanding that prevailed between the King and himself in their copartnership.[2] But little attention was paid, therefore, to his Majesty's orders when, during the nominal peace between Spain and England, he found it to his interest to avow his purpose by putting an end to piracy. Upon the accession of James, however, a more serious effort was made to this end. In August, 1687, a small fleet was dispatched under Sir Robert Holmes with a commission "for suppressing pirates in the West Indies."[3] A copy of this commission was sent to the Proprietors, with instructions for their coöperation. Pirates and sea-rovers coming unto any of the ports of the province were

[1] *Life of Clarendon*, Oxford, MDCCLIX, 242.

[2] Bryan Edwards's *Hist. West Indies*, vol. I, 169.

[3] Chalmers's *Pol. Ann.*; Carroll's *Coll.*, vol. II, 319; *Hist. Sketches of So. Ca.* (Rivers), 147.

to be seized and imprisoned, and their ships' goods and plunder were to be taken and kept in custody until his Majesty's Royal pleasure should be known. These instructions the Proprietors at once forwarded to the Governor, and washed their hands of all further responsibility. Sir Robert Holmes's commission, it may be observed in passing, granted him for three years all the goods and chattels taken by him from pirates or privateers,[1] rendering his service one scarcely less of plunder than that of the pirates themselves. Together also with the instructions for the suppression of piracy and copies of Sir Robert Holmes's commission, there was sent a notice that his Majesty had learned a wreck had been discovered near the coast of Hispaniola, from which a considerable quantity of silver and other treasures had been taken and carried into divers parts of his dominions in America, and warning the colonists not, indeed, to leave the wreck and its treasures to its owners, but that the King claimed one full moiety of all treasure and riches taken from the bottom of the sea as being by the ancient ordinances of admiralty due to his Majesty. Sir Robert was to have all the treasure he could capture from the pirate, and the King was to have his full share of all that could be found in wrecks. Under Sir Robert's commission his interest was certainly not to protect commerce and the colonies from the pirates, but rather to let the pirates get all the treasure they could, and then to retake the treasure from them and appropriate it to himself.

Just what assistance the Carolinians gave Holmes, observes a writer upon this subject, is not known.[2] But a more pertinent historical inquiry, perhaps, will be: what

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 120.

[2] S. C. Hughson, *Johns Hopkins Univ. Studies*, 12th Series, V, VI, VII, 26.

assistance did Sir Robert give to the Carolinians? The Proprietors extended to them the King's orders to seize all pirates who should enter their ports. But how was this to be done? Pirates are men of war; armed men, manning armed vessels. The scourge had been that, by means of their arms, they could descend upon and plunder not only merchant vessels but small peaceable communities. Thus it was that Morgan had swept down upon and plundered Porto Bello and Panama, and carried off large treasures from them. Again we ask, were the Carolinians, surrounded as they were by hostile Indians, in danger of Spanish invasion, now also threatened by the French on the Mississippi, governed by a feeble board in England, who, while unable to afford them protection from any of these dangers, three thousand miles away, were harassing them in their government — were the Carolinians, in a state of civil turmoil, weakness, and danger, to incur the animosity of new enemies and to invite the special attention of the pirates whom the British fleet under Holmes could not or would not suppress? But suppose that in obedience to the instructions of the Lords Proprietors the colonists had valiantly determined to seize, prosecute, condemn, and execute all pirates who should venture upon their coast, where was the legal machinery provided for their doing so? A commission in admiralty has been authorized by the act passed in Colleton's time. But as yet there was no Vice Admiral, no Marshal, no Clerk: no court organized for the purpose. While the Lords Proprietors were amusing themselves with the making of Landgraves and Caciques, and bestowing upon them baronies and manors, for the practical business of administering justice, they had no Attorney General to prosecute, and but one person to sit in condemnation as Judge, and to execute his own decree as Sheriff. The same person was to arrest and drag into

his court the accused; then to mount the bench and condemn; then to take the prisoner to his execution or to see at least that the stripes he had awarded were well laid on by some other criminal assigned by him to the task. It was in this condition of society that the colonists were called upon to enforce the laws against offences not committed against themselves, nor within the limits of their province. It was not until April 12, 1693, that the Proprietors authorized the Governor to appoint some fitting person Attorney General for the prosecution of crimes. Nor does it appear that such a man was then to be found in the province. More than a year after, August 13, 1694, the Proprietors announced that they had appointed Ferdinando Gorges of the Inner Temple Attorney General of the province of Carolina;[1] but the honor was not sufficient to induce that gentleman to come out, and it was not until nearly three years after that Nicholas Trott, the first Attorney General for South Carolina, was appointed.

Hewatt states that about the time of the passage of the *habeas corpus* act and the jury law by the Parliament of Carolina (1692), forty men arrived in a privateer called the *Loyal Jamaica*, who had been engaged in a course of piracy, and brought into the country treasures of Spanish gold and silver. These men, he says, were allowed to enter into recognizance for their peaceable and good behavior for one year with securities, till the Governor should hear whether the Proprietor would grant them a general indemnity. At another time, he goes on to say, a vessel was shipwrecked on the coast, the crew of which openly and boldly confessed they had been on the Red Sea plundering the dominion of the Great Mogul.[2] Hewatt does not give his authority for the statement in regard to

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 136.

[2] Hewatt's *Hist. of So. Ca.*, vol. I, 115.

the passengers of the *Loyal Jamaica*, but Dalcho, in his *Church History*, gives the names of twenty-one of them, among which are some of the most honored names in South Carolina.[1] Fortunately, two books of miscellaneous records are preserved, one in the Secretary of State's office in Columbia, and the other in the Probate office in Charleston, which together explain the circumstances and refute Hewatt's allegation that these persons had been engaged in piracy. Some of them, it is true, had been engaged in a cruise as privateers under a commission from King William against the French. The story is probably based upon a letter of Edward Randolph, the collector of the King's customs in America, which we shall have occasion to quote a little later, in which the most reckless charges were made against the colonists, not only in Carolina, but in every other province in America. In this letter of 1696, Randolph, complaining that Governor Blake was a favorer of illegal trade, states that, about three years before, seventy pirates, having run away with a vessel from Jamaica, came to Charles Town, bringing with them a vast quantity of gold from the Red Sea. That they were entertained and had liberty to stay or go to any other place; that the vessel was seized by the Governor for the Proprietors and sold.[2] There is no record that the *Loyal Jamaica* was so seized. But in a fragment of the journal of the Grand Council found in Grant Book of 1672–94, in the Secretary of State's office in Columbia, to which we have alluded, there is a list of twenty-two persons who were required to enter into recognizances upon their arrival in that vessel, doubtless under the instructions which were sent out with the copy of Sir Robert Holmes's commission, in order that the validity of her commission might be examined. This record gives the names

[1] *Ch. Hist.*, 15. [2] *Coll. Hist. Soc. of So. Ca.*, vol. II, 196.

of the persons, the amounts of their recognizances, which, except in the case of the captain, George Reiner, one Joshua Wilkes, and one James Gilchrist, were merely nominal, and gives also their sureties. Among these persons were Thomas Pinckney, Robert Fenwick, and Daniel Horry. The sureties for Thomas Pinckney were Sir Nathaniel Johnson and Francis Noble, Gentleman; for Robert Fenwick, Sir Nathaniel Johnson and John Alexander; for Daniel Horry, Isaac Massique (Mazyck?) and Peter Girard. It is probable that all but the captain, Wilkes, and Gilchrist were merely passengers.[1] In the Miscellaneous record book in the Probate office in Charles Town there are depositions of Honory Perry, Thomas Pinckney,

[1] In *Grant Book*, Secretary of State's office, 1672–94, p. 78, we find this entry: "The under named persons arrived in this part of the Province the --day of April Anno Domini 1692 in the shipp called the *Loyal Jamaica* commonly called the Privateer vessell. Each man entered into Recognizance with securities in the month of May 1692. In the sums to their names annexed for one year or until the government heard from England.

	li			*li*
John Watkins	0.50	James Moore Esq	Capt Edmund Billinger	0 25
Richard Newton	0.50	Capt George Dearsley	Edward Rawlins	0.25
Roger Gosse	0.40	Maj Robert Daniel	Charles Burnham	0.20
Adam Richardson	0.50	Robert Gibbes Esq.	William Beardesly	0 25
Edmund Mendlicotte	0 80	Capt Charles Basden	Peter Girrard	0.40
William Ballok	0 40	John Sullivan	Edward Loughton	0.20
Christopher Linkley	0 40	Capt Charles Basden	William Smith	0 20
Thomas Pinckney	0.60	S. Nathaniel Johnson Knt	Francis Noble. Gent	0.30
Capt George Reiner	400 [a]	John Alexander	William Smith	200
Joshua Wilkes	100 [b]	John Alexander	David Mayhank	50
Robert Fenwicke	0 60	S. Nathaniel Johnson	John Alexander	0 30
James Gilchrist	100 [b]	John Alexander.	Andrew Baugh	50
Francis Blanchard	0.40	Peter La Salle	John Thomas	0.20
Roger Clare	0 30	Charles Barsden.	Henry Hillory	0.15
William Crossige	0.30	Charles Barsden	Henry Hilory	0.15
Daniel Horry	0 50	Isaac Majelque	Peter Girard	0.25
Daniel Rawlinson	0.60	Nicholas Marden	Francis Fidling	0 30
Robert Mathews	0.60	Anthony Shory.	Francis Fidling	0 30
William Walesley	0.60	William Williams	John Lovell	0 30
Richard Abram	0.60	William Popell	Nicholas Barrasom	0.30
John Palmer	0.40	Joseph Palmer	John Guppell	0 20

[a] £8000. [b] £2000.

Christopher Linkley, and Edmund Medlicott, taken before the Council on the 29th of August, 1692, in the case of a vessel claimed by Jonathan Amory, which probably explains the matter. In these depositions they state that they had been on a cruise against the French under a commission from King William and Queen Mary, and had captured the vessel in question and taken her into Jamaica, where she was condemned and sold as a prize. This is doubtless the foundation of Randolph's story of pirates running away with a vessel from Jamaica, and bringing her into Charles Town, and also of Hewatt's story of the forty pirates which has been seized upon and amplified by other writers. Perry, Pinckney, Linkley, and Medlicott, all young men under twenty-five years of age, had been engaged in an adventure under a Royal commission, as privateers in times of open and flagrant war between England and France. Privateers under a regular commission from William and Mary were very different from the piratical crew encouraged by Charles II. They were no more pirates than were the sailors of the allied fleet who about the same time burnt the French ships in the bays of Cherbourg and La Hogue.

Poe's charming romance of the *Gold Bug*, in which the scene of the search for Kidd's buried treasure is laid upon Sullivan's Island, has given currency to the idea that Kidd at some time visited Charles Town, and it has been said that a number of his crew were in Carolina.[1] But the authority referred to does not, we think, bear out the suggestion. Two affidavits are found in the old book of miscellaneous records in Probate office, Charleston, just referred to, made by two mariners — one of New York — then in this province, to the effect that they knew one Samuel Bradley, who appears to have been charged

[1] *The Carolina Pirates and Colonial Commerce* (Hughson), 46

with being one of Kidd's men. They depose that they had been passengers on board the ship *Adventure*, Kidd, commander, in a voyage from Madagascar to the Island of St. Thomas, and had seen Bradley on the ship in a weak and sickly condition, taking no part with the piratical crew, but, on the contrary, continually protesting against their course; for which he was ultimately put ashore on a rock on the Island of Antigua. There was probably no port on the coast of America — and, for that matter, in Europe — then, in which mariners who at some time had been engaged in piracies could not be found, pardoned or unpardoned. So, too, the place of Kidd's hidden treasure is variously located all along the Atlantic and Gulf coasts.

Sothell had wisely attempted to incorporate the French into the political body of the colony, and to facilitate them in the settlement of the hitherto unoccupied lands on the Santee; but Ludwell pursued a reactionary course in regard to these people. The Grand Council, on June 21, 1692, in issuing an order for the better observance of the Lord's Day by prohibiting the haunting of punch houses during the time of divine service, further ordered "that the French ministers and officers of their church be advised that they begin their divine service at 9 o'clock in the morning and about 2 in the afternoon of which they are to take due notice and pay obedience thereunto." The Huguenots complained to the Proprietors of the threats made their estates and marriages, whereupon the Proprietors wrote to the Governor and Council on April 10, 1693:[1] —

"The French have complained to us that they are threatened to have their estates taken from their children after their death because they are aliens. Now many of them have bought the land they enjoy of us, and if their estates are forfeited they escheat to us, and

[1] *Hist. Sketches of So. Ca.* (Rivers), 176; Appendix, 437.

God forbid that we should [take] the advantage of the forfeiture, nor do we so intend and therefore have sent our declaration under our hands and seals to that purpose which we will shall be registered in the Secretary's and Registrar's Office, that it may remain upon record in Carolina, and be obliging to our heirs successors and assigns. They also complain that they are required to begin their Divine worshipp at the same time that the English doe, which is inconvenient to them in regard that severall of their congregations living out of Towne are forced to come and go by water, & for the convenience of such they begin their Divine Worshipp earlier or later as the tide serves, in which we would have them not molested. They Complain also that they are told the marriages made by their ministers are not lawfull because they are not ordained by some bishop and their children that are begotten are bastards. Wee have power by our patent to grant liberty of Conscience in Carolina. And it is granted by an act of Parliament here, and persons are married in the Dutch & French churches by ministers that were never ordained and yett we have not heard that the children begotten in such marriages are reputed unlawful or bastards and this seems to us opposite to that liberty of conscience their Majesties have consented to here, and we pursuant to the power Granted us have Granted in Carolina. Wee desire these things may be remedied and that their Complaints of all kinds be heard with favor and that they have equal Justice with Englishmen and enjoy the same privileges; it being for their Majesties service to have as many of them as we can in Carolina. Wee would have them receive all manner of just encouragement whatsoever," etc.

Ludwell was no more successful in his government than his predecessors. In attempting to appease both the Proprietors and the colonists, he satisfied neither. The Proprietors had abandoned the Fundamental Constitutions in name, but by their instructions they strictly retained their agrarian regulations and surrendered no power claimed for themselves. To gratify the leaders of the people in a measure, however, ampler provisions were made for granting them lands by the Governor, and the legislative privileges of the Assembly were defined and extended in cases in which the public peace and welfare required enactments, provided they did not "diminish or alter any powers granted

to the Proprietors." It is evident that while Ludwell had refused the demands of the Assembly in the matter of the indemnity, he had lost the confidence of the Proprietors. "We are glad to hear that you gain on both parties," they wrote, "and approve of your design to open their eyes. Avoid the snare Colleton fell into, who was popular at first; but the Goose-Creek men fearing the loss of their power offered him an excise for his support, and in return made him turn out seal deputies and disoblige others to please them: yet afterward called out against his avarice whereby he lost the opinion of the people. We hear they are playing the same game with you by offering a gift of a thousand pounds. James Moore is at the head of this faction. And in return you had an act of indemnity which you had not the power to grant. . . . We observe you say the Goose-Creek men are resolved to oppose all we shall offer: therefore they ought not to be employed. You say Sir Nathaniel —— has hopes for himself, were the government changed to the king. This cannot be from William, because he quitted the Leeward Islands on account of refusing to take the new oaths. Watch his actions."[1] The Governor was thus distrusted by both parties.

Previously to Sothell's administration, the enacting clause of all acts had run, "*by the Palatine and the rest of the true and absolute Lords and Proprietors of this Province by and with the advice of the nobility and commons in their Parliament assembled.*"[2] In Sothell's time the word "nobility" had been omitted, and Ludwell, it appears, had advised the same omission. He had also assented to several acts which the Proprietors immediately annulled,

[1] *Hist. Sketches of So. Ca.* (Rivers), 169. This allusion is to Sir Nathaniel Johnson, subsequently Governor, who had recently come into the province.

[2] See *Statutes of So. Ca.*, vol. II, pp. 40–73.

and thereupon recalled the permission they had given for the publication of a certain class of important laws until ratified by themselves in England. He had been empowered to grant lands and furnished with a form of indenture for that purpose. The opposition of the people finally induced him to propose to the Assembly another form of deed on terms that affected the interests of their Lordships. The Proprietors, dissatisfied with his conduct, recalled his commission.[1]

The Proprietors now went back again to the colonists for a Governor, and sent out a commission for Thomas Smith. He had, it will be remembered, been nominated as Governor to succeed Colleton; but had been superseded by Sothell. He had loyally stood by the Proprietors in all the controversies since his arrival in the colony, and had advised Colleton in proclaiming martial law against Berresford and the others, whom their Lordships designated as "the Goose-Creek men." He was himself one of the richest men in the colony, and had recently married the widow of John d'Arsens, Seigneur de Wernhaut, to whom the Proprietors had in 1686 granted 12,000 acres of land.

D'Arsens appears to have died before the grant was perfected, and upon Smith's marriage with D'Arsens's widow, he was allowed the benefit of the grant.[2] He was now made a Landgrave, as became a Governor, with the usual accompanying grant of 48,000 acres more. The Proprietors might well now congratulate themselves that they had committed the province to the care of one who was deeply interested in its welfare, and cognizant of its interests. Much was expected of his character, experience, and intimate knowledge of colonial affairs. But he lost courage at the popular ferment about the tenure of lands, payment

[1] *Hist. Sketches of So. Ca.* (Rivers), 169, 170.

[2] *Coll. Hist. Soc.*, vol. I, 123.

of quit-rents, the naturalization of the Huguenots, the annulment by the Proprietors of the acts of Ludwell's Parliament relating to juries, and the election of representatives. He did not continue in office a year.[1] He was commissioned on the 29th of November, 1693,[2] as Governor of "Carolina," including both North and South Carolina. His instructions, like those of Ludwell, directed him, if practicable, to unite the colonies under one General Assembly, to which Albemarle County should send delegates. If this was, however, impracticable, he was to appoint a deputy for North Carolina.[3]

Governor Smith was enjoined to compel by law the collection of rents, and assume the responsibility of directing the Receiver General. But there stood, says Rivers, the violent James Moore and his coadjutors, determined not to pay. "We part with our lands on our own terms," reiterated their Lordships. "And we consider your deed invalid," rejoined the faction of the people, "because only some of you have set your hands and seals thereto." A number of the malcontents quitted the province, and it was thought unless others went peace could not be restored. At length Governor Smith, despairing of allaying the discontents and contentions, wrote to the Proprietors in October, 1694, that he and others intended to abandon Carolina and live in some other part of America; "that it was impossible to settle the country except a Proprietor himself was sent over with full power to heal grievances." Without waiting for their reply, he resigned, and Joseph Blake, the son of Benjamin Blake the emigrant, who had been made a Landgrave, was chosen by the Council to act in his stead until a new Governor should be commissioned.[4]

[1] *Hist. Sketches of So. Ca.* (Rivers), 171.

[2] *Coll. Hist. Soc. of So. Ca.*, vol. I, 134. [3] *Ibid.*

[4] Archdale, Carroll's *Coll.*, 101; *Hist. Sketches of So. Ca.* (Rivers), 172.

CHAPTER XII

1694–96

GREAT changes had in the meanwhile taken place in England. James II had abdicated, and William and Mary had been proclaimed King and Queen in February, 1689. Of the original Proprietors, Clarendon, Albemarle, Lord Berkeley, Shaftesbury, Sir George Carteret, Sir William Berkeley, and Sir John Colleton were all dead. Earl Craven alone survived.

Clarendon had died at Rouen, in exile, on the 19th of December, 1674, and his share, which during his exile had been represented by his son, Lord Cornbury, had been sold to Seth Sothell (or Southwell) in September, 1681.[1]

Albemarle had died in retirement on the 3d of December, 1669; his son, the second Duke, died in 1688, without leaving issue; and his share had been in litigation in the King's Bench, Chancery, and House of Lords. It had just been adjudicated to be the property of the Earl of Bath, who was accordingly admitted as a Proprietor on the 12th of April, 1694.[2]

Lord Berkeley had failed to pay his quota towards the enterprise,[3] and he does not seem to have been concerned in its affairs after Shaftesbury undertook their management. In 1675 he was accredited ambassador extraordi-

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 105.

[2] *Public Records of So. Ca., Colonial*, vol. III, 122; *Coll. Hist. Soc. of So. Ca.*, vol. I, 135.

[3] *Coll. Hist. Soc. of So. Ca.*, vol. I, 100.

nary to the Court of Versailles, and died on the 28th of August, 1678. His son, the second Baron of Stratton, succeeded to his proprietorship. He died at sea the 21st of September, 1682.[1] The other Proprietors appropriated this share, under the forfeiture clause of their joint-stock associates, and conveyed it to Joseph Blake on the 11th of April, 1698.[2]

Shaftesbury, intriguing with Monmouth and joining in the "No Popery Cry," had been seized and committed to the Tower in 1681, from which he offered, if released, to retire to Carolina. He was allowed to escape and reached Amsterdam, where he died the 21st of January, 1683. His share was now held by his son, the second Earl, "a poor creature both physically and mentally."[3] It was represented, however, by Lord Ashley, the son of the latter, who afterwards became another famous Earl of Shaftesbury. Locke's connection with the province ceased with the fall of his patron.

Sir George Carteret, who had been created a baronet, died on the 13th of January, 1679, and was succeeded by his son, Sir George, then a boy of but ten years of age. During his minority the share was represented by the Earl of Bath. This second Sir George died just about this time, *i.e.* 1695, and was succeeded by his son, who afterwards became the Earl of Granville.[4]

Sir William Berkeley had been recalled from Virginia because of his severity in putting down Bacon's Rebellion, and, refused an audience by the King, had died, it was said, of a broken heart, on the 13th of July, 1677. He left no issue. There was great controversy over his share; the litigation in regard to it was not ultimately settled in

[1] Burke's *Peerage*.

[2] *Danson* v. *Trott*, 3 *Brown's Parl. Cases*, 452.

[3] *Encyclopedia Britannica*. [4] Burke's *Peerage*.

the courts until 1729, the year of the surrender to the Crown.

In March, 1681, the other Proprietors write to the Governor in Carolina that Sir William was dead, but it was not known to whom his share belonged.[1] In May they write that Mr. Archdale, having purchased Lady Berkeley's proprietorship, had become one of the Proprietors.[2] And yet, in 1682, they were attempting to appropriate the share to themselves on the ground that it had lapsed under the provisions of the Fundamental Constitutions, and were only prevented from doing so by the order of the King in council on the 10th of December, 1682, made upon the petition of Viscount Hardinge, who claimed it as Sir William's heir at law. The order declared that the grant to Sir William had been made "without being subject to such lapse or avoidance."[3] Viscount Hardinge, however, gained nothing by his interference: for, as it turned out, Sir William had left a will by which he devised his eighth part of the province to his wife Dame Frances. After his death she had married Colonel Philip Ludwell, as we have seen, and the other Lords Proprietors, failing in their scheme of appropriating this share, on the 11th of April, 1684, four of them, to wit, the then Duke of Albemarle, the then Lord Carteret, the Earl of Craven, and Sir Peter Colleton, purchased it from Ludwell and his wife Dame Frances for £300, that is, probably, $7500. For purposes of their own, however, they did not take the title to themselves, but the deed which they took conveyed the proprietorship to one Thomas Amy in fee. This Thomas

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 104.

[2] *Ibid.*, 106.

[3] *Colonial Records of No. Ca.*, vol. I, 340. Charles Berkeley, Viscount Fitzhardinge in Ireland and Earl of Falmouth in England, was the son of Charles, eldest brother of Lord John and Sir William Berkeley. *The Genesis of the United States*, Alex. Brown, 827, 828.

Amy was a grocer in London, probably a relation of Sir Peter Colleton, whose mother was a daughter of William Amy, Esq. Amy appears to have been an agent of the Proprietors in procuring people to go to the province, and for this purpose was industrious in meeting and treating them at the Carolina Coffee House in London.[1] For these services 12,000 acres were granted him in 1694.[2] Sothell dying in the same year without, as it was believed, heirs or assigns, the Proprietors made a further grant to Amy of the share of the Earl of Clarendon that Sothell had purchased, and also appointed him one of the Proprietors. They at the same time made him a Landgrave and granted him a barony of 48,000 acres more.[3]

Sir John Colleton was the first of the Proprietors to die. Upon his death, in 1666, he had been succeeded by his son Sir Peter, who was just now also dead, and the Colletons' share was represented by William Thornburgh, merchant, Sir Peter's executor, as guardian for his minor son, the second Sir John.[4]

The sole survivor of the original Proprietors was the old Earl of Craven, who, in his eightieth year in command of the Coldstream Guards, was ready to resist the foreign troops of the Prince of Orange, swearing that he would rather be cut in pieces than yield possession of his post, and only doing so at the command of James.[5] The

[1] *Danson* v. *Trott, supra.*

[2] *Coll. Hist. Soc. of So. Ca.*, vol. I, 137, 141, 142.

[3] *Danson* v. *Trott, supra; Coll. Hist. Soc. of So. Ca.*, vol. I, 141, 142. In the case of *Danson* v. *Trott*, it is said that Sothell was dead without heirs or assigns. But the fact was that he had left a will which was admitted to probate in North Carolina, where he died. Hawks's *Hist. of No. Ca.*, vol. II, 191. The proprietorship does not appear however, ever to have been claimed by any one under his will.

[4] *Public Records of No. Ca., Colonial*, vol. III, 127.

[5] Macaulay's *Hist. of England*, vol. IV, 42.

stout old soldier was now in the eighty-seventh year of his age, but he still presided at the Board of Proprietors as Palatine.

The Proprietors, as we have seen, had in May, 1682, written that Mr. Archdale had purchased Lady Berkeley's share, and had become a Proprietor. This purchase was made in the name of Thomas Archdale, a minor, and the interest purchased was represented by his father, John Archdale.[1] It is impossible to reconcile the conflicting claims to this share. In the letter of May, 1681, the Proprietors recognize its purchase by Archdale as valid, and yet we find them in December, 1682, endeavoring to appropriate it to themselves as lapsed, and when foiled in this, they purchased it themselves in 1684 from Ludwell and Lady Berkeley, now Ludwell's wife, and took this second title in the name of Thomas Amy. And what is still more curious, they appear to have recognized the double title for years; for both Archdale and Amy sat at the Board of Proprietors with apparently title to no other share from April 11, 1684, to the assignment by them of Sothell's share to Amy in September 29, 1697.

However this may be, the Proprietors, on July 29, 1682, that is, just after his purchase of Lady Berkeley's share, commissioned Archdale to receive their rents due in North Carolina;[2] and thereupon he came out and remained in Albemarle apparently for some years. He was probably, in some degree at least, attracted to that place by his sympathy with the Quakers, he having become a member of the Society of Friends, "convinced and separated from his father's house," as he states, by the preaching of George Fox. That he contemplated the permanent settlement of

[1] *Colonial Records of No. Ca.*, vol. I, 467; *Coll. Hist. Soc. of So. Ca.*, vol. I, 204.

[2] *Coll. Hist. Soc. of So. Ca.*, vol. I, 105, 106.

a portion of his family in North Carolina, and that one of his daughters did actually settle there as the wife of Emmanuel Low, to whom she was married in 1668, is proved, says Dr. Hawks, by existing records, as well as by the fact that some of their descendants remained there until recently, and perhaps are there to this day.[1] Archdale was in North Carolina in an official capacity in 1683, as Sothell, who was then the Governor there, was instructed by the Proprietors to communicate with him upon the subject of their letter.[2]

We have seen the great rewards the Proprietors had heaped upon Amy for the use of his name in holding the share they had purchased from Lady Berkeley, and for the "important services rendered by him" at the Carolina Coffee House, but it will appear a little later that Nicholas Trott of London,[3] who became his son-in-law, was not satisfied with the provincial title of nobility and a few acres of wild woods in payment of good and lawful money of the realm expended by Amy in "drumming" for the Proprietors, but upon the death of Amy demanded further compensation before the legal title held by Amy's heirs should be divested. This gave rise to the great suit of Danson against Trott, which reached, as we have said, the House of Lords.

The business of the province in England was at this time principally conducted by Archdale, Amy, and Thornburgh in the name and over the signature of the aged Earl of Craven as Palatine.

The Proprietors had originally organized themselves into a joint-stock company, to the capital of which each

[1] Hawks's *Hist. of No. Ca.*, vol. II, 378, 499.

[2] *Coll. Hist. Soc. of So. Ca.*, vol. I, 110.

[3] This Nicholas Trott of London was cousin of the famous Nicholas Trott, Chief Justice of South Carolina.

was to contribute £500, and £200 more annually. This capital was not, however, fully paid in; neither Lord Berkeley nor Sir William fulfilling their quotas. Archdale says, however, that about £12,000 was contributed. This was expended in fitting out the expedition for the settlement of the colony in 1669. No more capital appears to have been raised, though individual Proprietors are said to have laid out several thousand pounds to advance the colony. Upon this comparatively insignificant basis, an outlay of from $240,000 to $300,000 of our present money, the Proprietors had undertaken to establish a most expensive and aristocratic government in the wild woods of Carolina, rivalling the kingdoms of Europe in the grandeur and number of its officers, with its three orders, themselves representing the King, a nobility of their own creation, and an assembly of the Commons.

The extravagance of this attempt was perhaps not so manifestly striking, while the board — a trading corporation though it was — consisted only of famous Dukes, Earls, Lords, and Baronets who had already been engaged in the making and unmaking of Kings, and the overthrow and establishment of governments; but exile and death soon changed its composition, and the incongruity of the whole scheme began to expose itself more fully when commoners, some of whom were Quakers, and others mere adventurers, became purchasers and assignees of shares in the enterprise, the value of which had fallen below the small sums invested; an eighth share in the vast domain included in the grant, with power in the owners of turning themselves and others into a nobility, selling in the market at the paltry sum of £300 (from $6000 to $7500).

The board, — the Palatine Court, as it was styled, — with its immense province to settle and govern, had not even an office or chamber for the transaction of its business, but

met about, sometimes at Whitehall, sometimes at the Cock Pit, sometimes at Westminster, but usually at the private residence of some one of its members, as convenience suggested; nor do they appear to have had any regular time for meeting, nor rules prescribing the conduct of their business: indeed, much of the business was transacted without any meeting at all, but by means of papers drawn by their Secretary, and carried about for the signature of such of the Proprietors as could be found. During the time that the affairs of the province were under the management of Shaftesbury, with Locke acting as his secretary, the business was regularly and promptly attended to, whether the Constitutions they devised were proper or not; but after Shaftesbury's fall it was so neglected that, as has already appeared, it was usually a year before the Proprietors' approval to an act could be obtained.

The action of their Lordships then became careless and capricious. They had made it a part of their Constitutions that the eldest Proprietor or Landgrave, who should be personally in Carolina, should, of course, be the Palatine deputy, and yet they were offended when Yeamans, the only Landgrave in the province, assumed to act as such. So, too, while submitting, however reluctantly, to Sothell's assumption of the government, as the only Proprietor present, they refused to confirm his administration. West, their most faithful and efficient servant, was made to give way to Morton, because Morton had carried out a few new settlers. Then Morton was capriciously removed because they thought a stranger would be more subservient to their views than one who had identified himself with the colony; and Kyrle, an Irishman who knew nothing of the people or their wants, was sent to govern them. He dying immediately, they not unnaturally appointed one of the Colletons as Governor, but the people overthrowing

his government, they weakly allowed Sothell's administration, while refusing to support it. Then they sent Ludwell; but retained him only two years, when they recalled him, and appointed Smith, who in disgust threw up the office in less than a year.

Without counting the short rule of Kyrle, and the accidental administration of Quarry, — though Quarry's administration, short and accidental as it was, proved to be one of the most important, — in twenty-three years the Proprietors had had by these removals and appointments eleven different administrations. Smith, failing to compose the contentions in the province, might well appeal to the Proprietors that one of them should come out to see for himself and in their interest, and to bring with him full power to act in the pacification of the people and the settlement of the affairs of the province.

Governor Smith's appeal to the Proprietors to send out one of their number was received by them; but who was to come?

On the receipt of Governor Smith's letter, a meeting was called for the 16th of June, 1694, at Mr. Thornburgh's residence on Tower Hill; but there only came the old Earl of Craven, the Earl of Bath, Mr. Archdale, and Mr. Amy. It was resolved, therefore, to write to Lord Ashley, who was in the country, and pray him to arrange to attend upon this extraordinary occasion for the good of Carolina, which would require a full Assembly.[1] Lord Ashley, the second great Earl of Shaftesbury, the third in number, then but twenty-four years of age, had shortly before returned from foreign travel, and it was hoped that he might have been induced to undertake the mission; but he was just about to enter public life in England, his father's affairs there required his attention, and he did not respond to

[1] *Public Records of So. Ca., Colonial* (MSS.), vol. V, 130.

the call upon him to go out to Carolina. He did not even attend the attempted meeting on the 23d of July. There were present at this meeting only the same persons, and they adjourned to the 28th, for which day "a court" meeting was called. But at this court the Earl of Bath was not present, and the court consisted only of Earl Craven, Mr. John Archdale, Mr. Thomas Amy, and Mr. Thornburgh. Of these the Earl was the only owner of the proprietorship which he represented. We have seen the dubious position of both Amy and Archdale; and Thornburgh was present only as the guardian of the minor, Sir John Colleton. So far from being able to send out one of the Proprietors themselves, it was found possible to get but one of them to attend a meeting to consider the subject, and he was an octogenarian.

In this dilemma Archdale was willing to make another visit to America, and though not in his own right a Proprietor, it was agreed between Amy, Thornburgh, and himself, with the assent of the Earl of Craven, that he should come; so the four, holding "a court," sat down and prepared his instructions, Archdale himself taking part in their preparation. They were careful to qualify and to explain Mr. Archdale's position by recording "that Mr. Archdale *being in the nature of a proprietor*," and that the present exigency of affairs in Carolina required, were the only inducements and reasons for his commission and instructions being so much larger than those of other Governors formerly had been.[1]

Archdale appears to have been a vain, amiable, quick-tempered man, of some cleverness for business, but without the political sagacity or ability of Sothell. Much has been said of his piety, and there is no reason to doubt its earnestness, though Randolph does accuse him of dishonest

[1] *Public Records of So. Ca., Colonial*, vol. III, 134.

practices as Governor. But whatever other principles of Quakerism he may have adopted, humility was not one of them; and a barony of 48,000 acres, which accompanied the title of Landgrave, was too much to forego because of scruples as to worldly titles. So he accepted both, as well also as the title of Governor, although the latter did require that he should be addressed as his "Honor."

Archdale was commissioned Governor both of South and North Carolina, on the 31st of August, 1694.[1] He was empowered to constitute a deputy both in South and North Carolina while he was in the province and also upon his departure from Carolina to England. He was given power and authority, with the advice and consent of three of the deputies of the Proprietors, to grant and sell lands, reserving a rent of 12 pence for 100 acres per annum, and to settle the quit-rents by patents or indentures in such manner as he and three deputies might think fit, receiving such commodities as the country afforded for the rent at a true value. He was also authorized to escheat lands and afterwards to sell or let them as might be best. He was farther empowered, with the advice and consent of the Council and General Assembly, to alter any former laws that should be thought fit to be changed, and to enact such others as might be reasonable for the better government of the province, the new laws to be as near as possible to the Fundamental Constitutions. Special directions were given in regard to the drawing of juries.[2]

It was nearly a year before Governor Archdale reached Carolina. He came by the way of Virginia, from which place, although clothed with discretionary authority, he wrote requesting specific power to appoint new deputies to the Proprietors, to abate the quit-rents in arrear, and to

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 138.

[2] *Colonial Records of No. Ca.*, vol. I, 389, 390.

sell land. His request was granted, and where he needed guidance he was referred to the instructions sent to Ludwell. He was given authority to settle all disputes concerning lands, to sell at £20 per thousand acres, the land near the settlements, and £10 for the same quantity in the interior; to take care of the Indians as he thought best; to build new towns; to fortify Charles Town and grant it a charter and permanently to settle the government by examining the Fundamental Constitutions, finding what would be acceptable to the people, and proposing a new set to the Proprietors for their confirmation.[1] The price of land, it will be observed, was thus greatly reduced; from $1 an acre, lands near the settlement were now offered at from 50 cents to 40 cents an acre; and in the interior at from 20 cents to 25 cents.

Having procured these additional instructions, Governor Archdale, at length, on the 17th of August, 1695, entered upon his government at Charles Town. He spent the first months endeavoring to allay "the heats" of the people, and selecting his Council. He brought out with him for this purpose blank deputations, in the use of which the Proprietors recommended him to observe care, "favor to be shown to those who have been the greatest benefactors to the country."[2] He prided himself no little upon the moderation and judgment with which he executed this power. "My power," he says, "was very large, yet did I not wholly exclude the High Church party at that time out of the essential part of the government, but mix'd two Moderate Church-men to one High Churchman in the council whereby the ballance of government was preserved peaceable and quiet in my Time, and so left and continued several years whilst Blake whom I left Gov-

[1] *Hist. Sketches of So. Ca.* (Rivers), 179, 180.
[2] *Ibid.*, 138.

ernour lived."[1] The Council he thus appointed and "mixed" were Joseph Blake, whom he describes as "accounted in some measure a dissenter,"[2] Stephen Bull, James Moore, Paul Grimball, Thomas Cary (his son-in-law), John Berresford, and William Hawett.[3] All former judges of the courts, officers of the militia, and justices of the peace were continued in their respective offices.[4] Having arranged these matters to his satisfaction, he summoned his first Parliament. "When I arriv'd," he says, "I found all matters in great confusion and every faction apply'd themselves to me in hopes of relief; I appeased them with kind and gentle words and so soon as possible call'd an assembly." Upon opening the Assembly, he addressed them as "Friends and Representatives of the People," and spoke to them of the occasion of his coming, told them that upon the application for some Proprietor to come over, Lord Ashley had been nominated, but his affairs not permitting his Lordship's coming, he had been induced to do so. That he was endued with a considerable power and trust, and he hoped faithfully and impartially to answer their expectations. "And I believe I may appeal to your Serious Rational Observations whether I have not already so allay'd your Heats as that the disgusting Titles thereof are so much withered away, and I hope this Meeting with you will wholly extinguish them so that a solid Settlement of this hopeful Colony will ensue," etc. Now that the Assemby had heard the Proprietors' intentions in sending him hither, he advised them to proceed soberly and mildly.

[1] Archdale's *Description of Carolina* (1708); Carroll's *Coll.*, vol. II, 112, 113.

[2] *Ibid.*

[3] Hewatt's *Hist. of So. Ca.*, vol. I, 130; *Coll. Hist. Soc. of So. Ca.*, vol. I, 142.

[4] Hewatt, vol. I, 130.

The Assembly replied, thanking Almighty God for his Honor's safe arrival, and returned him most sincere and hearty thanks for the progress he had already made since his arrival towards the settlement of the place; for his candid expressions and the good favor and great kindness shown to the people, and assured him of their hearty endeavor to the attaining of such a settlement as would redound to the honor of the Lords Proprietors and the happiness of the people.

"But Courteous Reader," says Archdale, "after this fair Blossomin Season to produce Peace and Tranquility to the Country some endeavor'd to sow Seed of Contention thereby to nip the same; insomuch that they sat six Weeks under Civil Broils and Heats; but at length recollecting their Minds into a cooler Frame of Spirit my Patience was a great means to overcome them so that in the conclusion all Matters ended amicably."[1]

These remarks, says Rivers, are applicable to both his parliaments, but Archdale did not expend much of his patience upon the first, which was dissolved on the 29th of November, after a session of a few weeks. Upon opening this Parliament he told the Assembly that the Proprietors required the jury act to be changed, so that the names of the jurymen should each be on a single piece of parchment and not by twelves. He next informed them that the price of selling land was reduced to only half the former price, and bade them remember the Proprietors had borne the expense "of several thousand pounds" out of their own pockets in settling the province. As he had spoken to them of his "many dangers and hardships" by land and by water, incurred only for their benefit, the Assembly immediately gave him the opportunity he seemed to desire to benefit them, and earnestly solicited him to

[1] Archdale's *Description*, Carroll's *Coll.*, vol. II, 101–103.

remit the arrears of rent, which were now a grievous burden upon all the people. To their surprise he refused to do so except on hard conditions.[1] This at once led to a rupture with the Assembly, which was dissolved. Immediately upon its dissolution, however, Jonathan Amory, the Speaker, presented a petition in behalf of himself and the people at large, praying the summoning of another, to consist of thirty representatives. Archdale agreed to this and on the 30th of November, the day after he had dissolved the Assembly, issued a proclamation for the freemen of the colony to meet on the 19th of December, at Charles Town, "then and there by a majority of their voices to agree to and ascertain the number of their representatives for this part of the Province, to consult and advise with us about making such laws as shall be necessary for the safety and defence of this Province." He professed to do this in compliance with the request of the "modest and reasonable members of the Commons and other well meaning inhabitants," and not at all to please "the obstinate majority" who had just defeated his designs for the peace of the province.[2]

Of the thirty representatives on which the people decided, the twenty for both Berkeley and Craven were elected at Charles Town, and the ten for Colleton at Captain Bristow's plantation in that county. There were no Huguenots among the representatives who assembled in the Parliament January, 1696. A petition was again made for an abatement of the debts due to the Proprietors. Archdale and his Council proposed to remit all arrears to Michaelmas, 1695, provided the remaining debts were secured, the town fortified by means of taxes and measures taken for the ready payment of quit-rents for the future.

[1] *Hist. Sketches* (Rivers), 180.

[2] *Hist. Sketches of So. Ca.* (Rivers), 181; Appendix, 439.

The Assembly first demanded an accurate statement of accounts between the people and Proprietors. Whilst the Governor thus bargained when he ought generously to have given, he requested on his part a clause to be inserted in the militia act in behalf of "tender conscience," which was unanimously refused.[1]

At length "business proceeded," it was said, "more in the spirit of compromise," and some important measures were passed. The first was an act to determine the price of land, the form of conveyances and the manner of recovery of rents for land, and the prices of the several commodities in "which the same might be paid."[2] By this act simpler forms of conveyancing were prescribed, and payment of the purchase money or rent reserved might be made in current money of the province, or in indigo, cotton, silk, rice, beef, or pork (in barrels or half-barrels), or in English peas. Six appraisers were to be appointed, three of whom were to be nominated by the Governor and Council and the other three by the Commons, to fix and determine the value at which these commodities should be received in payment. Lands rented were to be held at a penny an acre, or the value thereof in the above commodities. In case of non-payment of the quit-rents the Receiver of the Lords Proprietors might distrain, and bring an action in court for recovery. Land should not revert to the Proprietors unless payments were delayed for seven years. All former grants or purchases from authorized agents, notwithstanding any legal defects in the conveyances, were confirmed to their possessors.

To encourage the peopling of the colony, grants were to be given without delay. New settlers were exempt from rent for five years. To all who wished to purchase, the

[1] *Hist. Sketches* (Rivers), 182, citing *Journals*.

[2] *Statutes of So. Ca.*, vol. II, 96.

price of land was reduced as allowed to £20 per 1000 acres, with a rent of 12 pence per 100 acres, and not forfeitable till non-payment for twenty-one years.

Several acts relating to the domestic affairs of the colony were passed. The settlements so far were principally upon the rivers and bays with which the low country of Carolina is everywhere intersected, and transportation was almost entirely by water; boats and canoes were not only, therefore, peculiarly valuable as the means of transportation, but were also peculiarly liable to theft: an act was passed on the subject, providing specially for the punishment for the stealing or letting loose of any boat or canoe. By this law a white freeman or servant was to be punished by a fine, whilst the Indian for the same offence was included with the slave and was to receive thirty-nine lashes, and for a second offence was to have his ears cut off.[1]

A curious act was one providing "for the destroying of unmarked cattle." A considerable business of the colony at this time was in the rearing of "black cattle." Cattle turned loose in the rich swamps, while deteriorating in size, multiplied in great numbers. These were watched and marked by their owners, and when fit for market were butchered and salted and shipped to Barbadoes and other West India islands. This act recited that a great number of trees had been blown down by the violence of a late hurricane, which made the woods difficult to be traversed, whereby many persons had been prevented from bringing their cattle to their pens and marking them as they were accustomed, and that, in consequence, many evil-minded persons had taken upon them to kill and destroy great numbers of them. The act provided for a system of licensing persons to kill unmarked cattle, and punishing

[1] *Statutes*, vol. II, 105.

any one for so doing without a certificate from a Justice of the Peace.[1]

Archdale prided himself greatly upon his management of Indian affairs and upon the humanity with which he treated them; and his administration has been commended particularly on this account.[2] And yet we have just seen the Indian punished by whipping and mutilation for stealing boats, for which the white man was only fined, and shall further see among the enactments of this mild administration in regard to these poor people one requiring "every Indian bowman capable of killing deere," before the 25th of November in every year, to bring to such person as the Governor should appoint to receive the same "one woolfes skinn one tigers skinn or one beare skinn, or two catt skinns," and if any one did not do so, the Cacique or Chief of his nation was required to bring him to Charles Town before the 25th of December, there to be severely whipped on his bare back in the sight of the inhabitants of the said town, which whipping, the act says, should be in the place of that skin which the Indian ought to have given to the receiver.[3] In one respect, however, Archdale moderated the restriction against the Indians. Sothell had forbidden, under severe penalties, firearms and rum to be given them. Archdale allowed them a pound of powder and thirty bullets for each destructive beast they killed beyond the yearly tax.

During Smith's short administration, an act had been passed in 1693 regulating public houses: but the act has been lost and there is no copy of it. So Archdale has the honor of the first act of which we have a record regulating the sale of liquor in Carolina. The act prohibits the sale,

[1] *Statutes*, vol. II, 106.
[2] Hewatt's *Hist. of So. Ca.*, vol. I, 132.
[3] *Statutes*, vol. II, 108.

except by license from the Governor, of any beer, cider, wine, brandy, rum, punch, or any strong drink whatsoever, under the quantity of one gallon at one draught; and puts in force all the laws of England, both statute and common, concerning the abuses and disorders of taverns.[1]

A beneficent measure of Archdale's administration was the inauguration of provision for the poor. Commissioners were appointed to receive contributions and gifts of charity, and, though to a very small extent, to draw from the public treasury for the support of the indigent.[2]

Archdale showed more humanity in settling disputes between the Indians, and in his conduct to those at a distance, than in the laws he provided for governing those who were near. He released from captivity four Indians and sent them back to their tribe near St. Augustine with a friendly letter to the Spanish Governor, who was induced thereby to act kindly in return to some Englishmen shipwrecked on the Florida coast. In another instance his taking under his protection a party of Indians at war with others was rewarded by the saving of a party of fifty-two New Englanders who had been cast away at Cape Fear, for whom Archdale sent a vessel and brought them safely to Charles Town.[3] These were the founders of Wappetaw Congregationalist Church, in what was afterwards Christ Church parish, and whom we shall find in a few years resisting the landing of the French at Sewee.[4]

Archdale, yielding to the opinions of the people, left the Indian trade and the condition of the Huguenots as he found them, but advised, with regard to the latter, the plan which was afterwards adopted. He seemed afraid

[1] *Statutes*, vol. II, 113.
[2] *Ibid.*, 116.
[3] Archdale, Carroll's *Coll.*, vol. II, 103, 109.
[4] *Ibid.*, 105, note; Howe's *Hist. Presb. Ch.*, 119.

lest he should do too much, and leaving many things undone which required attention, he hastened from the colony, appointing, under the power of his commission, his friend, Joseph Blake, Deputy Governor.[1]

Upon Archdale's departure, the Commons were profuse in their acknowledgments of their appreciation of his services. Through Jonathan Amory, their Speaker, they made an "humble address and recognition of thanks" to the Lords Proprietors for their gracious condescension in sending him out with such large and ample powers, for the remission of some arrears of rents, and for the undeniable manifestation of their Honor's parental care; and to Archdale himself for the prudent, industrious, and indefatigable care and management of the powers intrusted to him. The acts of grace he had so reasonably condescended to grant had removed all doubts, jealousies, and discouragements of the people, and had laid a most sure foundation on which might be erected a most glorious superstructure,[2] etc. These were but empty words. The radical differences between the Proprietors and the colonists were not removed and were soon to break out afresh. Archdale, however, having arranged matters to his own satisfaction, received the address with great complacency, and promised to present it to the Proprietors on his arrival in England.[3]

[1] *Hist. Sketches of So. Ca.* (Rivers), 185.
[2] Archdale, Carroll's *Coll.*, vol. II, 104.
[3] Hewatt, vol. I, 137.

CHAPTER XIII

1696–99

Joseph Blake, whom Archdale under his power appointed Deputy Governor upon his departure, was the son of Benjamin Blake, the immigrant who had come out with Axtell and Morton. He had been a Deputy, one of those whom Sothell had removed, and whose return to office the Proprietors had required; and as Deputy he had been chosen by the Council as Governor, when Smith gave up the office in disgust. He had already, therefore, had a short administration, and was now about to enter upon the longest term of any but Governor West's, whose administration, indeed, his very much resembled in its quiet, peaceful, and useful conduct of affairs. On the 25th of April, 1697, the Proprietors made him a Landgrave and expressed their satisfaction at his appointment by Mr. Archdale.[1] — an appointment, however, which, as we shall see, they afterwards found it convenient to disown.

The most important act of his administration was the naturalization and enfranchisement of the Huguenots. The antipathies of the English colonists to the French emigrants — because of their nationality refugees from their country though they were — had at first been very great: but these now began to abate. From the quiet and inoffensive behavior of the Huguenots, their industry and success in the settlement of a part of the province

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 141.

which had hitherto been avoided by the English, more kindly feeling began to be entertained in regard to them. Though the Treaty of Ryswick had not yet been actually made, the opposition of France to the recognition of William was gradually subsiding, and the war between England and France was nearing an end. This, no doubt, in a great measure tended to soften the sentiment of hostility to the French in Carolina. At this favorable juncture, by the advice of the Governor and other friends, the Huguenots petitioned the General Assembly to be incorporated with the freemen of the colony, and to be allowed the same privileges and liberties with those born of English parents. The Assembly listened to the appeal, and adopted "*an act for the making aliens free of this part of the province and granting liberty of conscience to all protestants.*" The preamble to this act recited that persecution for religion had forced some aliens, and trade and the fertility of the province had encouraged others, to resort to the colony, who had given good testimony of their duty and loyalty to his Majesty and the Crown of England, of their fidelity to the Lords Proprietors, of their good affections to the inhabitants, and by their industry, diligence, and trade had very much enriched and advanced the settlement; and the act provided that all alien inhabitants of the province should be entitled to enjoy the same privileges as those born of English parents, and to hold lands and claim the same as heirs or by their own purchase, upon the condition that such persons should within three months petition the Governor and Lords Proprietors for the benefit of its provisions, and should also make oath of allegiance to his Majesty King William. The act names and enfranchises those who had joined in the petition to the Assembly. It went on also further to provide that as "several" of the present inhabitants had transported

themselves into the province in hopes of enjoying the liberty of their conscience according to their own persuasion under the Royal charter of King Charles the Second, of blessed memory, all Christians who were then in the province, or might thereafter come (Papists only excepted), should enjoy the full, free, and undisturbed liberty of their consciences, and exercise their worship according to the professed rules of their religion without let or hindrance.[1]

Blake had thus easily induced the Assembly to do, of their own accord, this justice to the Huguenots which Sothell had endeavored to force upon them by his authority, and Archdale had not ventured to ask. He had secured them equal rights and representation with Englishmen.

Governor Archdale had not availed himself, to any great extent, of the powers in his commission to alter existing laws. Upon his return to England, the Proprietors themselves, however, took up the subject. In the meanwhile, the old Earl of Craven, the third Palatine, had died April 9, 1697; and John Granville, Earl of Bath, who had just established his title to the original share of the Duke of Albemarle, being the eldest of the Lords Proprietors, succeeded him as fourth Palatine. The proprietorship of Earl Craven had descended to his son William, Lord Craven.[2] The Proprietors had, on the 22d of August, made Thomas Amy a Landgrave;[3] but they wished now to transfer the share which he held in trust, *i.e.* that purchased from Lady Berkeley, to some person likely to strengthen their interest at court, yet not to lose so valuable a person, they transferred to Amy

[1] *Statutes of So. Ca.*, vol. II, 131.

[2] *Coll. Hist. Soc. of So. Ca.*, vol. I, 141; Collins's *Peerage*, vol. VII, 146.

[3] *Coll. Hist. Soc. of So. Ca.*, vol. I, 141, 142.

the proprietorship of Seth Sothell, which they had appropriated,[1] and, for the present, transferred the trust in the Berkeley share to Mr. Thornburgh, who now represented at the board not only the Colleton share, but this as well.[2] The imbecile Earl of Shaftesbury was represented by his son Anthony, Lord Ashley; and the minor Lord Carteret by the Earl of Bath. The board was thus reduced to six members: the Earl of Bath, Lord Craven, Lord Ashley, and Messrs. Thornburgh, Amy, and Archdale. Thus constituted, it made another effort to impose the Fundamental Constitutions, but in a revised form. With the aid of Major Daniel and Captain Bellinger, who were in England,[3] the articles were reduced to forty-one by the omission of those relating to manors and leet-men, the cumbrous system of courts and their dignitaries, etc. The new Constitutions made no alterations in matters of religion, still provided for the creation of Landgraves and Caciques to form the Upper House of Parliament, limiting them, however, to half the number of the Commons, made the Governor and Council the Palatine Court, and continued to proclaim that property was the foundation of "all power and dominion in Carolina." These Constitutions were signed April 11, 1698, by Bath, Palatine, Ashley, Craven, Thornburgh, and Amy.

The nobility which, under the Royal charter, the Proprietors were empowered to institute, as we have before pointed out, was intended to be a provincial nobility. The authority given the Proprietors to confer marks of favor and titles of honor was explicitly limited to such of the inhabitants of the province as should merit such rewards.[4]

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 143.

[2] *Danson* v. *Trott*, *supra*.

[3] *Coll. Hist. Soc. of So. Ca.*, vol. I, 145.

[4] *Ante*, p. 61.

But regardless alike of the purpose and limitation of their authority, the Proprietors had, up to this time, conferred the title of Landgrave upon no inhabitant of the province except as an appendage or qualification to that of Governor, in the cases of West, Smith, and Blake. The eleven Landgraves had been appointed while they were in England or Barbadoes, from favor or for services rendered in those places, such as Locke's for drawing the Constitutions, as Axtell's and Morton's in inducing immigration, and as Amy's at the Carolina Coffee House. To propitiate the opposition to the Constitutions in Carolina, the Proprietors fell upon the plan of putting these titles of nobility within the reach of the colonists by purchase. They sent out the new Constitutions by Major Robert Daniel, the same Robert Daniel they had excluded from the general pardon because of his connection with the revolt against Colleton in 1692, and with them they sent also patents for six Landgraves and eight Caciques, to be sold to such persons of worth as Landgrave Morton and he should deem worthy. They were to receive from each Landgrave £100 (equal to, probably, $2000), and from each Cacique £50 ($1000).[1] Captain Edmund Bellinger purchased a patent for Landgrave in England, for which he was to pay £100 in Carolina, and one John Bayly purchased another, for which he was to pay £100 in Ireland.[2] Robert Daniel was made a Landgrave without purchase. As a still more substantial favor, the Proprietors made over to Governor Joseph Blake the proprietorship of Lord Berkeley's which they had appropriated. The grant bears date the same day as the Revised Constitutions.[3]

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 155.
[2] *Ibid.*, 147.
[3] *Danson* v. *Trott*, *supra*.

The Assembly in Carolina were, however, not so easily to be cajoled. After several weeks had passed, the Assembly requested the Governor and Council to inform them if they had power to alter and amend the proposed form of government, and were told they had not. They then appointed a committee, consisting of Captain Job Howes, Ralph Izard, and Dr. Charles Burnham, to look into the matter. The committee reported, denying legislative power to Landgraves and Caciques as an order; recommending that baronies be reduced to a smaller extent of land; demanding that, throughout the colony, lands should be secured to the people at the present rate of rent and purchase, and that no freeholders of a certain quantity of land should be liable to arrest in civil cases. These demands the Proprietors refused, and the Constitutions were again laid aside.[1]

Edward Randolph, the Collector of the King's customs in America, had been complaining of the neglect and violation of the navigation acts and of the favor shown pirates not only in Carolina, but in all the colonies, had been urging the King to suppress all the Proprietary governments, and had suggested a scheme for consolidating all the English provinces. South Carolina and the Bahama Islands he recommended should be put under his Majesty's immediate authority: that North Carolina should be annexed to Virginia; the three lower counties of Delaware to be annexed to Maryland: the province of West Jersey to Pennsylvania; East Jersey to New York; and Rhode Island to Massachusetts.[2] This grand scheme for the reduction and consolidation of the colonies did not succeed; but his agitation of the subject caused the passage of an act of Parliament, in 1695, for preventing frauds and

[1] *Hist. Sketches of So. Ca.* (Rivers), 187.

[2] *Colonial Records of No. Ca.*, vol. I, 141.

regulating abuses in the plantation trade. This act, which was a reënactment of the navigation laws in more stringent form, required the Proprietors of all the Proprietary governments to submit to the King, for his Majesty's approval, the appointments of Governors they proposed to make, and the Governors when so appointed were required to take oaths to observe the acts in regard to the plantation trade; and all officers appointed by the Governor to perform duties under these acts were required to give security to the commissioners of customs in England.[1]

Randolph saw, even at this early day, that resistance to the navigation laws would end in independence, and believed that even then that was its purpose. He thought the government in America too loose, and desired to have their bonds to that at home drawn in and strengthened. He advised that fit persons should be appointed Governors of Carolina and Pennsylvania, to prevent the illegal trade carried on by Scotchmen and others in vessels belonging to New England and Pennsylvania; and that a Court of Admiralty with a Judge, a Register, a Marshal, and an Attorney General should be appointed in each colony to enforce the act of Parliament just passed to prevent frauds in the plantations.[2] The Lords of Trade approved his suggestion as to the establishment of Courts of Admiralty, and directed him to nominate fit persons for these offices.[3] He recommended the appointment of one person as Attorney General for the colonies of Virginia, Maryland, Pennsylvania, North Carolina, and West Jersey; of another, for Massachusetts, Rhode Island, and New Hampshire; and of another, for New York, East Jersey, and Connecticut. He made no recommendation for South Carolina.[4]

[1] *Statutes of the Realm*, vol. VII, 103.
[2] *Colonial Records of No. Ca.*, vol. I, 461.
[3] *Ibid.*, 462, 463.
[4] *Ibid.*, 463, 464.

He again addressed the commissioners on the 10th of November, 1696:[1] —

"The chief end of granting these vast tracts of land (now called proprieties) to noblemen and others," he wrote, "was doubtless to encourage the first undertakers to plant & improve them for the benefitt of the Crowne, & to be always subject & depending on England & conformable to the Laws thereof. Great numbers of people are now seated in some of these proprieties but have been long endeavoring to break loose & set up for themselves having no sort of regard to the Acts of Trade, and discountenancing appeals from their Courts to his Majesty in Councill. The persons appointed by the Proprietors to be their Governors are generally men of very indifferent qualifications for parts & Estates. Their maintenance is inconsiderable which renders their Government precarious also," etc.

But it was not only in regard to the customs that Randolph complained. He was most sweeping and reckless in his charges against the colonies for harboring pirates. The Bahama Islands, of which Nicholas Trott was then Governor, had been and were, he said, a common retreat for pirates and illegal traders. Charles Town in Carolina, of which Mr. John Archdale, a Quaker, was Governor, as one of the Lords Proprietors during his son's minority,[2] was free for trade to all places. He wrote: —

"They trade to Carasaw,[3] from whence the Manufacture of Holland is brought to Charles Towne and carryed by New England men and other illegal traders to Pennsylvania Boston etc: and returns are made for them in Plantation Commodities which are carryed from Carolina to Carasaw and thence to Holland; about 3 years ago 70 pirates having run away with a vessel from Jamaica came to Charles Towne bringing with them a vast quantity of Gold from the Red Sea, they were entertained and had liberty to stay or goe to any other place. The vessell was seized by the Governor for the

[1] *Colonial Records of No. Ca.*, vol. I. 466.

[2] It will be recollected Archdale had taken the title to Sir William Berkeley's share, which he had purchased from Lady Berkeley in his son's name.

[3] Curaçoa?

Proprietors as a Wreck & sold, they have no regard to the Acts of Trade. The present Governor (Archdale) is a favourer of the illegal trade," etc.

The inlets of Carituck and Roanoke, he charged, were the resorts of pirates and runaway servants from Virginia. The Governor of Pennsylvania entertained pirates from the Red and South seas. Providence, Rhode Island, was a free port to illegal traders and pirates from all places, etc.

The Commissioners of Trade called on the Proprietors of the various colonies to answer these charges, and the Proprietors of Carolina, Pennsylvania, the Jerseys, and Connecticut did so. Protesting their loyalty, but resting their rights under their grants, they claimed that their charter implied the grant of the Admiral's jurisdiction and power of erecting Courts of Admiralty and constituting judges and officers for them. The reason they had not hitherto erected such courts was that under the acts of Parliament violations of the navigation acts were cognizable in the common-law courts, and the establishment of Courts of Admiralty would have occasioned salaries and other great and expensive charges. They apprehended that there was no necessity for such courts, unless for the condemnation of prizes, few or none of which had been brought into the provinces. They were, nevertheless, ready and willing, they said, to erect such courts if required.[1]

The Board of Trade, however, insisted upon his Majesty's right to his own Courts of Admiralty, notwithstanding the charters: whereupon the Proprietors wisely gave up their claim of right and prayed that the Governors of the several provinces might have commissions to be Vice Admirals with the same powers as the Governors of the provinces under Royal authority.[2] But this his Majesty was not willing to

[1] *Colonial Records of No. Ca.*, vol. I, 471. [2] *Ibid.*, 473.

allow. The Board of Trade preferred to look after the enforcement of the navigation acts themselves, and to appoint their own Courts of Admiralty. In the persons to constitute the court, however, the preferences of the Proprietors were evidently consulted. Sir Charles Hedges, Judge of the High Court of Admiralty, on the 29th of April, 1697–98, appointed as admiralty officers for South Carolina Joseph Morton, late Governor, Judge; Thomas Cary, Archdale's son-in-law, Register; Jonathan Amory, Speaker of the Commons, Advocate, and R. Pollinger Marshal.[1]

Another turn was taken against the Proprietary governments. The act of 1695 had required that his Majesty's approval should be obtained for the appointment of their Governors, but now it was further required that the Governor of any Proprietary province should give bond in a penalty of not less than £2000 nor more than £5000 (*i.e.* from $40,000 to $100,000), according to the trade of the province, for the faithful execution of the navigation acts. The Proprietors protested that this was unnecessary since the recent act requiring the approval of the King for the appointment of a Governor. The objection was overruled and the bond was required.[2]

The Proprietors now found it necessary to pay some attention to their courts in Carolina, and to provide something better for the administration of justice than a Judge and Sheriff combined, without a prosecuting officer. They appointed and sent out a Chief Justice and an Attorney General. The Attorney General was first commissioned. This was the same Nicholas Trott who had been Governor of the Bahamas, and whom Randolph had denounced as a harborer of pirates; and as if in defiance of this accusation,

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 207.

[2] *Colonial Records of No. Ca.*, vol. I, 476, 477, 557.

Trott was not only appointed Attorney General, but Advocate General of Admiralty and Naval officer. He was commissioned as Attorney General February 5, 1697–98, and a month after his instructions were made out. His duties were prescribed to be: to communicate such instructions to the Governor and Council as were requisite; to peruse the acts of Assembly before confirmation, so as to see that they were not repugnant to the laws of England, and to report the same to the Lords Proprietors. He was to prosecute and take care of all matters criminal; to advise and consult with the Collectors of the King's customs, and the better to secure the King's customs they constituted him also Naval officer. He was instructed to inquire into the Indian trade and its abuses. He was to be allowed access to all public records in the grantings of office, and of all documents whatsoever. His salary was fixed at £40 (*i.e.* about $800) per annum. As Naval officer he was to make entries of all ships inward or outward bound, to obey all instructions and directions from the Proprietors or the Commissioners of the Customs.

The Chief Justice was Edmund Bohun, who was commissioned on the 22d of May, 1698. He was one of the few settlers in Carolina who was entitled by birth to be called a cavalier. He was of the family mentioned by Macaulay as one of those untitled families descended from knights who had broken the Saxon ranks at Hastings and scaled the walls of Jerusalem.[1] Mr. Bohun was a man of

[1] "There were untitled men well known to be descended from knights who had broken the Saxon ranks at Hastings and scaled the walls of Jerusalem. There were Bohuns Mowbrays De Veres nay kinsmen of the House of Plantagenet with no higher addition than that of Esquire and with no civil privileges beyond those enjoyed by every farmer and shopkeeper." — *History of England*, vol. I (ed. Hurd & Houghton), 1878, 42; *Introductory Memoir to Diary and Autobiography of Edmund Bohun.*

learning: he was the author, compiler, editor, or translator of many books,[1] but he was not a professional lawyer. His qualifications for the judicial office were only those acquired by experience on the magisterial bench, on which he had sat for many years by no means regardless of its responsibilities, and upon the duties of which he had published a tract, in 1684, entitled *The Justice of Peace, his Calling: a Moral Essay.* Mr. Bohun, bred a dissenter from the religion of the established church, a great admirer of parliaments, and taught betimes to fear monarchy and arbitrary government, became one of the sturdiest advocates of hereditary monarchy, but was, nevertheless, a most zealous and uncompromising Protestant. Upon the overthrow of James, he held, with others, that the most submissive slaves of "passive obedience were not bound to remain forever without a government" or actively seek the restoration of a prince who had sought to enslave the nation and overthrow the Protestant church. Holding fast the theory of non-resistance, he thanked God that he, by his own "particular providence, had rejected a king who had notoriously invaded and destroyed all our civil and religious rights and liberties." His abandonment of the cause of James cost him the friendship of Archbishop Sancroft and the loss of his seat on the magisterial bench. But upon the return to power of the Tories in the Parliament of 1690, Mr. Bohun was given the post of licenser of the press. Here the perversity of his character or fortune again asserted itself. While his known opinions and published writings laid him open to strong suspicion of Jacobitism on the one hand, his avowed allegiance to William and Mary exposed him, on the other, to a charge of gross inconsistency. He held the office but five months. His Protestant zeal had occasioned his expulsion from the

[1] For list of works by him see Allibone's *Dictionary of Authors.*

magistracy under James; restored to it under William and Mary, he was again removed by the Whigs because of his Toryism. A sincere and earnest Christian, a scholar and writer of great ability, he appears to have been a man without tact in the vigorous expression of his opinions, to which misfortune his irascible temper and the acrimony of his style added bitterness. It is not known through what medium he obtained the office of Chief Justice of South Carolina. His inducement to seek it was probably that his eldest son, Edmund, had settled as a merchant in the colony.[1]

On the 16th of August, 1698, the Proprietors wrote to Governor Blake and Council:[2]—

"Gentlemen: wee are intent upon making you the happy settlement in America; in order to which wee sent you by Major Daniell (who we hope is safely arrived) constitutions of government in which wee have been more hearty in securing your liberty and property than any particular advantages of our owne. With him went a Mr. Marshall a minister recommended by us, who wee hope and doubt not will both by example and preaching encourage virtue, and that he will not want encouragement from you. And because good laws without due exercise are a dead letter, and the reputation of a just execution of them is inviting wee have commissioned Edmund Bohun Esq a person who has had a very good reputation in the execution of the laws of England to be your chief justice; who besides the advantage of his owne estate which will be transmitted to him is allowed by us a very good salary to keep him beyond the reach of temptation of corruption. Gentlemen your very affectionate friends *Bath Palatine*" etc.

To obtain for their colony a reputation of the wise administration of its laws, the Proprietors sent out a mere Justice of the Peace of England as Chief Justice of the province; and to secure him against the temptation of corruption, they allow him, as a very good salary, £60 a year

[1] *Introductory Memoir to Autobiography.* [2] *Ibid.*

(about $1200), but in addition to which there were also perquisites of fees and costs.

John Ely was commissioned as Receiver General on the 26th of July, and the Governor and Council were informed of his appointment at the same time as they were informed of the appointment of the Chief Justice. Mr. Ely was charged as Receiver to settle, or to introduce, a trade to North Carolina and the Bahamas, so as to produce a profitable revenue to Charles Town. He was to inform himself of the fines imposed upon persons for misdemeanors, and to collect the same; to inquire concerning forfeited and escheated estate; to take charge of their share of wrecks; to get information in regard to all lands granted, and to frame a regular rent-roll. He was to pay the salaries of the officers, to receive a certain commission himself, and to present his accounts once in every three months. At the same time the Rev. Mr. Samuel Marshall was sent out and appointed Registrar of the colony.

The Proprietors were thus attempting — in a niggardly way, it is true — to provide a better government; but they were becoming a less and less influential body. Their hold upon the province was being weakened and loosened both at home and in Carolina. At home, in England, Proprietary governments were falling into disfavor, and the Royal authorities were on the alert to find some good cause of forfeiture or suppression. In Carolina the colonists were becoming more and more restive under the control of a weak board, sitting thousands of miles away, and giving to their vital interests no regular attention, but only the idle moments of lives devoted to other purposes. Randolph had roused the Board of Trade at Whitehall to a stricter enforcement of the navigation acts, and the possibilities of a larger revenue from his Majesty's customs.

He was now turning his attention particularly to South Carolina, where he proposed to make his residence in the winter time to avoid the extreme cold of the northern plantations.[1] From Charles Town, on the 16th of March, 1698-99, he addressed a long and interesting letter to the Commissioners of Trade.[2] From this letter it appears that Blake had not been confirmed as Governor by his Majesty's order, because the act of 1695, requiring the King's approval, had not been noticed by the Proprietors. He gives an estimate of the population as not above 1500 white men, and throughout the province a proportion of four negroes to one white man: not more than 1100 families English and French. He tells the story of the destruction of Lord Cardross's colony in 1686, and of the projected invasion of St. Augustine, the design of which, he had heard, was to establish a trade with the Spaniards. He finds great alarm at the rumors of the French settling on the Mississippi, "not far from the head of the Ashley River"; charges the Lords Proprietors with neglect in not furnishing ammunition during the French war; proposes a scheme for soldiers to be sent over at half pay for two or three years, then to maintain themselves (this could be done at small charge until they numbered 1000); submits a proposal by one of the Council, a great Indian trader who had been 600 miles up the country west from Charles Town, to discover the mouth of the Mississippi in five or six months at an expense of about £400 or £500.[3] The great improvement made in the province he attributes to the industry and labor of the inhabitants. They had applied themselves to make such commodities as might increase the revenue of the Crown,

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 209.

[2] *Ibid.*, 210; *Hist. Sketches of So. Ca.* (Rivers), Appendix, 443.

[3] Colonel James Moore, *Coll. Hist. Soc. of So. Ca.*, vol. I, 208.

as cotton wool, ginger, indigo, etc., but finding them not to answer the end, they were set upon making pitch, tar, and turpentine, and planting rice, of which they could make great quantities if they had any encouragement from England, having about 50,000[1] slaves to be employed in that business; but they had lost most of their vessels, which were but small, some by the French and some by the Spaniards, so that they were not able to send those commodities to England for a market; neither were there sailors there to man their vessels.

He recommends that his Majesty should, for a time, suspend the duties upon rice, and should encourage the planters to fall vigilantly upon making pitch and tar, etc. Charles Town he represented as the safest port for vessels bound from the West Indies to the northern plantation. He had formerly presented their Lordships with proposals for supplying England with pitch, tar, masts, and all naval stores from New England; and he had observed, when in New York, great abundance of tar brought down the Hudson River, and great quantities also from the colony of Connecticut; but since his arrival in Carolina, he finds he had come to the only place for such commodities upon the Continent of America. Some persons had offered to deliver in Charles Town Bay, upon their own account, 1000 barrels of pitch and as much tar, others greater quantities, provided they were paid for it in Charles Town in Lyon dollars,[2] passing here at five shillings per piece. The season for making these commodities in this province being six months longer than in Virginia and the more

[1] Doubtless a clerical error or typographical error for 5000.

[2] By act of 1694, fixing the value of Spanish coins, it was enacted "that pieces of eight of the coyne of Mexico Pillar . . . Peru *Lion* dollar and other coynes containing full thirteen penny weight troy and upwards shall be currante money and pass in this part of this province at five shillings the piece of eight," etc. — 2 *Statute*, 95.

northern plantations, a planter here could make more tar in one year with fifty slaves than the inhabitants of northern plantations could do with double the number in those places, these slaves living here at very easy rates and with few clothes. He encloses a statement of the number of French Protestants living in Carolina, which he had received from Mr. Girard. He finds these people industrious and good husbandmen; but they were discouraged because they were denied the benefit of being the owner and master of vessels which other subjects of his Majesty's plantation enjoyed. He concludes his account of Carolina by saying that, if the place was duly encouraged, it would be the most useful to the Crown of all the plantations upon the Continent of America.

The new courts did not work smoothly. A vessel was seized and condemned in the Court of Admiralty as a prize; Morton, the Judge, refusing to receive the evidence of witnesses that it was owned by English subjects and overruling all defences. Randolph, as usual putting the worst construction upon the affair, charged corruption, in which he implicated the Judge in Admiralty and the Governor, his brother-in-law. The matter was taken up in England and gave considerable trouble.[1] As might have been expected from the over punctiliousness and scrupulosity of the new Chief Justice, and his general unfitness for such a position amidst the discordant elements of the colony, with the meddlesome Randolph at hand to be stirring up new difficulties, Mr. Bohun was soon in as much trouble in Carolina as he had been at home. He was at once in as much opposition to Governor Blake as he had been first to King James, and then to King William. Nor did he find the colonists of Carolina any more disposed

[1] *Coll. Hist. Soc. of So. Ca.*, vol. II, 200, 201; *Colonial Records of No. Ca.*, vol. I, 546.

to acquiesce in his assumption of superior morals than had been the Whigs or Tories in England.

We have no record of the immediate occasion of the difficulty which arose, but it is apparent that the attempt two hundred years ago to establish in Carolina a dual government, with a dual system of judicature, gave rise at once to jealousies and collisions as it has done afterwards in our own times under the Federal and State constitutions. The Lords Proprietors duly forwarded to their Governor and Council the orders and instructions of the Royal Government relating to the trade and navigation laws with instructions to observe them, and to pay all due respect to his Majesty's officers; but they were very jealous of the Court of Admiralty, and did not hesitate to express their chagrin that Landgrave Morton, one of their Council, should have accepted a commission from any other source than themselves, even though it was that of a judicial office from his Majesty himself.[1]

On the 21st of September, 1699, the Proprietors address two letters, one to the Governor and Council and the other to the Chief Justice.

To the former they write:[2] —

"Gentlemen: wee are not willing to let any ship goe from hence without a line from us. And truly you do manage matters on all hands that wee have occassion more than enough. We are sorry that the sincere love and hearty care wee have for our colony should produce no better effect, and wonder you can't see the benefit that will always accrue to you and your posterity by a judge who does not depend on the will and pleasure of a governor. For as we will not act arbitrarily ourselves, so we will always endeavour that nobody shall. Wee expected that you and our councill should have countenanced our judge; but wee easily discerne that you raise him all the enemys and troubles that you can, and in some things in an extraordinary way

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I, 148, 149.

[2] Note to *Introductory Memoir to Autobiography of Edmund Bohun.*

to say no otherwise of it. Not that wee judge him altogether blameless; but there have been faults on all hands. And wee expect and earnestly desire that which is past may be forgot and that for the future you will give him due encouragement and assistance as we shall require of him to carry himself with all respect to you and justice and kindness to the people. Gentlemen your very affectionate friends. Bath palatine," etc.

To the latter they write: —

"Sir: wee are sorry you have not met with the encouragement and assistance wee designed you should have had and which for the future will be given to you; but can't omitt to tell you that you likewise have been to blame and have done things imprudently and irregularly. Wee rather that you calmely considering of what is past, should find them out, than wee be forced to tell you of them. Wee have given orders to the governor and councill in this matter, and wee expect that you should show them all respect. Wee would recommend to you not to shew too great a love for money which is not beautifull in any man much worse becoming a judge. Take no more than your dues and if they at present be of the least consider time will mend them; and if that don't there may be meanes found to doe it. The way to compass that is not by complaint or passion. When you have convinced everybody by your actions of your justice and especially if you act with prudence and temper you will gaine their love, and they will be studyng to make such a man easy. Sir your very affectionate friend," etc.

On the 19th of October their Lordships address two more letters, one to Governor Blake, the other to Attorney General Trott. To the Governor they write: —

"Wee are troubled to see you have not given encouragement to our judge as you ought to have done, but have on the other hand, to vex him, been exalting the admiralty jurisdiction 'Tis so surprising to us that we can't tell what to think of you or the councill or the people for whose sake wee were at the charge to send and maintaine a judge The people of New York have addressed the governor that judges and councillors may be sent from England, and promise to encourage them themselves . . . There is nothing contributes more to the peopling of a country than an impartiall administration of justice: nothing encourages trade more: for it is hardly to be imagined that men will labour and run great hazards to get an estate

if they have not some assurance of being protected by the lawes . . . We must desire you to be very cautious for the future in giving your assent to acts which hinder men from coming at their just rights. Sir," etc.

Trott appears in this instance to have acted as a peacemaker. The Proprietors write to him: —

"Wee are well pleased with your prudent management of the affaires of Judge Bohun and returne you our thankes. Wee are sensible that he likewise has in some things not been so prudent as he should have been. Wee have directed your governor and councill to accomodate that affayr and to countenance our judge, in which we expect great assistance from your knowledge and prudence. Sir," etc.

This reference to the action of the colonists of New York was needless; the colonists of Carolina had made the same appeal. Twenty-nine years before O'Sullivan had written, requesting that an able counsellor should be sent to end controversies, and put them in the right way to manage the colony;[1] but the preposterous provision of the Fundamental Constitutions in regard to lawyers and to lawmaking had deterred any from coming; and now the Proprietors, while sending them a lawyer as Attorney General, were sending them a laymen for Chief Justice. In the letter of October 19, the cause of the present trouble is hinted at. It was that the Governor and Council were vexing Bohun, their Chief Justice, by retaining his Majesty's Judge of Admiralty. In other words, the Governor and Council were paying more deference to the Royal authority than to that of the Proprietors. In another letter they charged that Mr. Randolph's "blustering has occasioned much of this embroilment."[2] But pestilence and death came to put a speedy end to the career of the Chief Justice and Receiver General.

The two last years of the century were full of disasters

[1] *Ante*, p. 137. *Coll. Hist. Soc. of So. Ca.*, vol. I, 148.

to the colonists. In the midst of all the political turmoil, fire, pestilence, storm, and earthquake visited the plantation. A letter from the Governor and Council to the Lords Proprietors, dated March 12, 1697–98 states: "We have had the small pox amongst us nine or ten months which hath been very infectious and mortal. We have lost by the distemper 200 or 300 persons. And on the 24 February a fire broke out in the night in Charles Town which hath burnt the dwellings stores and outhouses of at least fifty families and hath consumed (it is generally believed) in houses and goods the value of £30,000 sterling." In a subsequent letter, dated April 23, 1698, they state that the smallpox still continued, but was not so fatal as in the cold weather, and that a great number of Indians fell victims to the disease.[1] A letter of Mrs. Affra Coming to her sister in England of the same time, March 6, 1698–99, gives a still more gloomy account. She writes:[2]—

"I am sorry that I should be the messenger of so sad tidings as to desire you not to come to me till you can hear better times than here is now, for the whole country is full of trouble & sickness, 'tis the Small pox which has been mortal to all sorts of the inhabitants & especially the Indians who tis said to have swept away a whole neighboring nation, all to 5 or 6 which ran away and left their dead unburied, lying upon the ground for the vultures to devouer; beside the want of shipping this fall winter & the spring is the cause of another trouble, & has been followed by an earthquake & burning of the town or one third of it which they say was of equal value with what remains, besides the great loss of cattle which I know by what has been found dead of mine and being over stocked, what all these things put together makes the place look with a terrible aspect & none knows what will be the end of it," etc.

The next year, 1699, a malignant disease, with little doubt yellow fever, was brought in from the West Indies

[1] Dalcho's *Ch. Hist.*, 32, note.

[2] MSS. letters in possession of Mr. Isaac Ball.

and raged in the town. In a letter from the Governor and Council dated Charles Town in South Carolina January 17. 1699–1700.[1] they state that they had nothing to communicate but that

"a most infectious pestilential and mortal distemper (the same which hath always been in one or more of his Majestys American plantations for eight or nine years last past) which from Barbados or Providence was brought in among us into Charles Town about the 28th or 29th of Aug. last past, and the decay of trade and mutations of your Lordships public officers occasioned thereby. This distemper from the time of its beginning aforesaid to the first day of November killed in Charles Town at least 160 persons. Among whom were Mr Ely Receiver General; Mr Amory Receiver for the Public Treasury; Edward Rawlins Marshall; Edmund Bohun Chief Justice. Amongst a great many other good and capital Merchants and Housekeepers in Charles Town, the Rev Mr Marshall our Minister was taken away by the said distemper. Besides those that have died in Charles Town 10 or 11 have died in the country, all of which got the distemper and were infected in Charles Town went home to their families and died; and what is notable not one of their families was infected by them."

Another letter states that "150 persons had died in Charles Town in a few days"; that "the survivors fled into the country" and "that the town was thinned to a very few people."[2]

It is noticeable that Chief Justice Bohun, the Rev. Samuel Marshall, the Receiver General Ely, and Edward Rawlins, all newly arrived, fell victims to the disease. But the old settlers were not exempt. Half of the members of the Assembly died. Nicholas Trott, the Attorney General, though a new arrival, escaped. Dr. Ramsay, who wrote in 1809, observes this disease was generally called the plague by the inhabitants, but that from tradition and the circumstances, particularly the contemporaneous existence of the yellow fever in Philadelphia, there

[1] Dalcho's *Ch. Hist.*, 35, 36. [2] *Ibid.*

is reason to believe that the malady was the yellow fever, and if so, it was the first appearance of that disorder in Charles Town and took place in the nineteenth or twentieth year after it began to be built. He considers that its reappearance in 1703 makes it still more probable that it was the yellow fever.[1] Dr. Dalcho, a physician whom tradition asserts was surgeon of a privateer before his entry into the ministry, and who was probably familiar with the disease in the West Indies, regards it also as probable that it was the same yellow fever of the time in which he wrote, *i.e.* the same as that of the present day. Indeed, we may safely assume that it was. He also calls attention to the fact that at that time, before our extensive swamps were cleared of their timber and their surface exposed to the direct rays of the sun, persons could reside in the low country in the summer and autumn without danger, and when unusual sickness prevailed in the town the country was resorted to as a place of health.[2] This continued for many years after. In 1738, we shall see, the General Assembly called and assembled at Ashley Ferry in September to legislate in regard to the spread of smallpox, then raging in the town.

During the autumn of 1699 a dreadful hurricane, as it was then called, happened at Charles Town, which did great damage and threatened the total destruction of the town. The swelling sea rushed in with amazing impetuosity and obliged the inhabitants to retreat for safety to the second stories of their houses. Happily, few lives were lost in the town, but a vessel, one crowded with the remnants of the disastrous Darien colony, happening to be off the bar at the time, was totally destroyed. This vessel, the *Rising Sun*, commanded by James Gibson, was one of seven in

[1] Ramsay's *Hist. of So. Ca.*, vol. II. 82, 83.

[2] Dalcho's *Ch. Hist.*, 36, note.

which the survivors of the Scotch colony had embarked upon their attempted return to their native land. But one only reached home. Many of those who had embarked in the *Rising Sun* died of fever and fluxes. To complete the chapter of disasters, the vessel encountered a gale off the coast of Florida which brought them into great distress. They made for the port of Charles Town under a jury-mast, and while lying off the bar waiting to lighten the vessel that she might get into port, the storm arose in which she went to pieces, and nearly every person on board perished.[1] From this vessel one was saved, however, almost miraculously, who was to be in a great measure the founder of the Presbyterian Church in Carolina. The Rev. Mr. Archibald Stobo had been waited upon by a deputation from the Congregational Church in the town and invited to preach, and, agreeing to do so, had gone up, taking with him his wife. Lieutenant Graham and several others also accompanied him. These thus escaped; and, going the next day in search of their unfortunate countrymen, found the corpses of the greater part of them washed ashore on James Island, where they spent a whole day burying them. Captain Gibson, the commander of the vessel, was among those who were lost: and this was regarded by many in Scotland as the retribution of Heaven upon his cruel conduct towards the poor prisoners whom he transported to Carolina in 1684. "In the very same place," it was said, "it pleased the Sovereign Lord of heaven and earth to call him in so terrible a manner to his account."[2]

One other event of the closing year of the century must be mentioned, which, it is to be hoped, had given some satisfaction to Mr. Randolph, though he has left no report

[1] Hewatt's *Hist. of So. Ca.*, vol. I, 142.

[2] Howe's *Hist. Presb. Ch.*, 141, 142.

of it to the Lords of Trade. In some alleviation of the disasters of the year the planters had made a great rice crop. They had raised more than they could find vessels to export, but the number which the crop employed had attracted the pirates, who hovered about the bar. Forty-five persons from different nations, Englishmen, Frenchmen, Portuguese, and Indians, had manned a ship at Havana and entered on a cruise of piracy. Several ships belonging to Charles Town were taken and the crews sent ashore. But quarrelling among themselves about the division of the spoil, the Englishmen, proving the weaker party, were turned adrift in a long-boat. They landed at Sewee Bay and travelled overland to Charles Town, giving out that they had been shipwrecked, but had, fortunately, escaped to shore in their boat. To their sad disappointment and surprise, no less than three masters of ships happened to be at Charles Town at the time, who had been taken by them and knew them; upon their testimony the pirates were instantly taken up, tried, and condemned, and seven out of nine suffered death.[1]

This account is taken from Hewatt. We can find no allusion to the incident in correspondence of the time; nor are we informed whether this swift judgment was the first-fruits of the newly established Court of Admiralty, or was inflicted by the "lynch law" of the people.

Never, says Hewatt, had the colony been visited with such general distress and mortality. Few families escaped a share of the public calamities. Almost all were lamenting the loss, either of their habitations by the devouring flames, or of friends or relations by infectious and loathsome maladies. Discouragement and despair sat on every countenance. Many of the survivors could think of nothing but abandoning a country in which the judgments of

[1] Hewatt's *Hist. of So. Ca.*, vol. I, 141.

Heaven seemed to fall so heavily and in which there was so little prospect of success, health, or happiness. They had heard of Pennsylvania and how pleasant and flourishing a province it was described to be, and therefore were determined to embrace the first opportunity that offered of retiring to it with the remainder of their families.[1]

As it happened, however, yellow fever was at the time raging in Philadelphia as well as in Charles Town, and those who had come from the West Indies regarded that dread disease only as one of the evils to which life was ordinarily exposed. Smallpox was all over the world. It was common at this time in England. From the dangers of fire there was no exemption in any country.

And notwithstanding all the political difficulties; notwithstanding the impotent yet harassing control of the Board of Proprietors in England, the jarring elements of different and differing people from various lands thrown together in a new country under a feeble government; notwithstanding the national animosities, the religious antagonisms, the strife and turmoil of a new society, in its struggles to adjust itself; notwithstanding hurricane, fire, and pestilence, — the province was improving and the colonists were growing in numbers and acquiring some wealth.

[1] Hewatt's *Hist. of So. Ca.*, vol. I, 143.

CHAPTER XIV

1700

THIRTY years had now elapsed since the planting of the colony on the Ashley, — thirty years during which the only serious efforts of the Proprietors had been devoted to the imposition of the absurd Constitutions of Locke, and an immediate return from the sales and quit-rents of lands and the profits of the Indian trade. Since the minute instructions to West for an experimental farm, they had paid no attention whatever to the development of agriculture in the province, nor to the defence of the colony from the French or Spaniards. Whatever had been accomplished in the material development of the colony had been by the efforts of the colonists themselves without the assistance of their Lordships in England. "The great improvement made in this Province," wrote Randolph, "is wholly owing to the industry and labor of the inhabitants."[1] The Lords Proprietors took, however, the credit to themselves; they wrote to Archdale, when on his way out, that Carolina was looked upon as a place of refuge and safe retreat from arbitrary government and the inconveniences of other places;[2] and Archdale, nowise loath to claim the honor due his administration, announces that the fame thereof quickly spread itself to all the American plantations and caused immigration to the province.[3]

[1] *Hist. Sketches* (Rivers), Appendix, 445.

[2] *Coll. Hist. Soc. of So. Ca.*, vol. I, 138.

[3] Carroll's *Coll.*, vol. II, 107.

But to whatever causes attributable, and they were many, the province was indeed improving and the inhabitants multiplying. In 1680 the population was estimated to be 1000 or 1200 souls; but the great number of families who had soon after come in from England, Ireland, Barbadoes, Jamaica, and the Caribbee Islands, it was estimated, had more than doubled that number, so that in 1682 the white population was probably 2500.[1] In 1699 Randolph wrote: "Their militia is not above 1500 soldiers, white men, but have through the province generally 4 negroes to 1 white man and not over 1100 families English and French."[2] Estimating the fighting men at one-fifth of the population[3] would make the number at this time 7500. It could scarcely, however, have reached that figure, especially since the number of families was but 1100. Supposing that the families averaged five members each, which is a large estimate, particularly in a new country, it would give but 5500. This may have been near the actual number. Hewatt states, but without giving his authority, that about this time the number of the inhabitants in the colony amounted to between 5000 and 6000.[4]

Archdale, as we have before seen, is very severe upon the character of the first settlers, describing them as "desperate fortunes" who "first ventured over to break the ice . . . generally the ill-livers of the pretended churchmen";[5] but Archdale was much prejudiced against church-

[1] T. A. Carroll's *Coll.*, vol. II, 82.

[2] *Hist. Sketches* (Rivers), Appendix, 443.

[3] "It is a popular estimate that one-fifth of the population are fighting men. If this is intended to designate the natural militia, that is, the male population over eighteen and under forty-five years of age, it will almost always be an overestimate, except in a population receiving large accessions of adult immigrants or among savage tribes." — Hammond's *South Carolina Resources and Population*, etc., 395 (1883).

[4] Hewatt's *Hist. of So. Ca.*, vol. I, 147.

[5] Carroll's *Coll.*, vol. I, 100.

men sincere or "pretended." Yet the term "adventurers" — not in the technical sense of the contracts under which some sailed,[1] but as applied to those willing to incur risks, because having little to lose — described the character of many who first came to Carolina. Hewatt applies the same descriptive term to those who immediately followed. From this period, *i.e.* that of Sir John Yeamans's administration, he says, every year brought new adventurers to Carolina. The friends of the Proprietors were invited to it by the flattering prospects of obtaining landed estates at an easy rate. Others took refuge there from the frowns of fortune and the rigor of unmerciful creditors. Youth reduced to misery by giddy passions and excess embarked for the new settlement, where they found leisure to reform, and where necessity taught them the unknown virtues of prudence and temperance. Restless spirits, fond of roving abroad, found also the means of gratifying their humors, and abundance of scope for enterprise and adventure.[2] It was, perhaps, among this class that Mr. Amy's "great services" were rendered in meeting and treating people at the Carolina Coffee House, and inducing them to go out to the colony.

The immigrants who came into Carolina made a medley of different nations and principles. From England, says Ramsay, the colony received both Roundheads and Cavaliers, the friends of Parliament and adherents of the Royal family.[3] If all adherents to the Royal family are classed

[1] Dalcho's *Ch. Hist.*, 14.

[2] Hewatt's *Hist. of So. Ca.*, vol. I, 56. See this passage, also, in Ramsay's *Hist. of So. Ca.*, vol. I, 3–4. A similar description is given of the first settlers in Virginia: "poore gentlemen, tradesmen, serving men, libertines . . . unruly gallants packed thither by their friends to escape ill destinies." — Anderson's *Hist. of the Church of England in the Colonies*, vol. I, 203, quoting Smith's *Virginia*, 88–90.

[3] Ramsay's *Hist. of So. Ca.*, vol. I, 3.

as Cavaliers, the statement is no doubt correct. But in the sense in which the word is generally understood, the records scarcely bear out the designation of the Cavaliers, whom Macaulay describes as those opulent and well-descended gentlemen to whom nothing was wanting of nobility but the name, there were none among the earlier settlers, and but few came afterwards.[1]

Until the time we are now considering, there had been but two persons in the colony having a title — Sir John Yeamans, the Landgrave and Governor, and Sir Nathaniel Johnson, who was also to be honored with that provincial title.[2] Sir John had been knighted because of his father's sacrifices in the Royal cause, and for his own services in Barbadoes. Sir Nathaniel had won his title by his sword in the service of the Stuarts. As has been observed, any tradition that connects to any extent the provincial aristocracies of the Southern States with the Old World patrician origin is pure sentimental fiction; that is, not only contrary to common sense and to all evidence that can be collected, but is in defiance of colonial history itself. The social order of South Carolina has been the outgrowth of her peculiar circumstances.

[1] See *Hist. Sketch of So. Ca.*, by Edward McCrady; Preface to *Cyclopedia of Eminent and Representative Men of the Carolinas*, etc. (Madison, Wisconsin, Brant & Fuller, 1892).

[2] The wife of Landgrave Axtell and the wife of Landgrave Blake are mentioned as "Lady Axtell" and "Lady Blake" in grants and statutes; but this, it is supposed, was merely a local honorary designation of the wife of a Landgrave. It cannot be found that they were entitled to the appellation by any connection with the peerage in England. Louisa Carolina, wife of Rear Admiral Richard Graves, a descendant of Sir John Colleton, in a little book published by her in 1821, entitled, *Desultory Thoughts on Various Subjects*, styles herself "Baroness of Fairlawn and Landgravine of Colleton." This lady was descended from the three Proprietors, — Sir John and the two Sir Peter Colletons. She was not, however, descended from either of the Landgraves Thomas or James Colleton.

But though socially not patricians, and in the main consisting of those whose circumstances led them to seek better fortunes in the New World than the Old afforded, and of others of a lower order and more reckless character, there is still manifest a strong religious sentiment even among the first-comers, and a recognition of the Church of England as the established religion of the colony. Sayle, dissenter and Puritan though he was, had scarcely landed before he applied for a clergyman of the church to be sent out, — an appeal which was immediately seconded by O'Sullivan, Bull, West, Scrivener, Marshal Paul Smith, and Dalton, all the leaders of the colony. The very first act passed is one to enforce the observance of the Sabbath. It is, nevertheless, doubtless true that the dissenters who came with Blake, Morton, and Axtell, and the French refugees flying for conscience' sake, were, as a class, men of higher, of sterner character than those who came from motives of personal advancement only.

It cannot be deemed wonderful, observes Hewatt, if many of these new settlers were disappointed, especially such as emigrated with sanguine expectations. The gayety, luxury, and vices of the city were but poor qualifications for rural industry, and rendered some utterly unfit for the frugal simplicity and laborious task of the first state of cultivation. Nor could the Puritans promise themselves much greater success than their neighbors; though more rigid and austere in their manners, and more religiously disposed, their scrupulosity about trifles and ceremonies, and their violent religious dispositions, created trouble all around them, and disturbed the general harmony so necessary to the welfare and prosperity of the young settlement. From the various principles which actuated the populace of England, and the different sects who composed the first settlers of Carolina, nothing less could have been expected

than that the seeds of division should be imported into the new country with its earliest inhabitants.[1]

There is no record of the first French Protestants brought out by Petit and Grinard in the ship *Richmond* in 1680, though one of the conditions of their transportation was that a list of their names should be furnished. They must have been persons of some means, however small, for they were required to furnish their own provisions for the voyage. It is believed that they were settled on the east branch of Cooper River, and formed the nucleus of what was known as Orange Quarter, subsequently the parish of St. Denis. It has been conjectured that the first of these names was derived from the principality of Orange in the province of Avignon. The name of St. Denis is supposed to commemorate the battle-field of St. Denis in the vicinity of Paris, which was the scene of a memorable encounter in 1567 between the Catholic forces commanded by Montmorency and the Huguenots led by Coligny and the Prince of Condé, in which Montmorency was slain. Some thirty families were settled here soon after the Revocation of the Edict of Nantes.[2] Lawson, in his travels in 1700, found seventy families established on the Santee, following trade with the Indians and living "as decently and happily as any planter in these southward parts of America. The French," he says, "being a temperate and industrious people, some of them bringing very little effects, yet by their endeavours and mutual assistance amongst themselves (which is highly to be commended) have outstript our English who brought with 'em larger fortunes though (as it seems) less endeavour to manage their talent to the best advantage. They live," he says, "like one family, and each one rejoices at the prosperity and elevation of his

[1] Hewatt's *Hist. of So. Ca.*, vol. I, 56.
[2] Howe's *Hist. Presb. Ch.*, 111.

bretheren."[1] But it was through pain, travail, and anguish that these noble people accomplished what they did. A letter of one of the first to arrive, the mother of Gabriel Manigault, who in a long and useful life was to accumulate a fortune so large as to enable him to aid the asylum of his persecuted parents with a loan of $220,000 for carrying on its revolutionary struggle for liberty and independence, has been preserved by Ramsay, which, after giving a most touching and piteous account of escape from France and suffering on their voyage to Carolina, thus relates their bitter experience there: —

"After our arrival in Carolina," she writes, "we suffered every kind of evil. In about eighteen months our elder brother unaccustomed to hard labor we were obliged to undergo died of a fever. Since leaving France we had experienced every kind of affliction — disease — pestilence — famine — poverty — hard labor. I have been for six months together without tasting bread, working the ground like a slave; and I have even passed three or four years without always having it when I wanted it. God has done great things for us enabling us to bear up under so many trials. I should never have done were I to attempt to detail to you all our adventures. Let it suffice that God has had compassion on me and changed my fate to a more happy one, for which glory be unto him."[2]

The Huguenots at first cultivated the barren highlands, and naturally attempted to raise wheat, barley, and other European grains upon them until better taught by the Indians. Tradition relates that men and their wives worked together in felling trees, building houses, making fences, and grubbing up their grounds until their settlements were formed; and afterwards continued at their labors at the whip-saw, and in burning tar for market. General Peter Horry stated that his grandfather and grandmother

[1] *A New Voyage to Carolina*, etc., by John Lawson, Gentleman, Surveyor General of North Carolina (London, 1709).

[2] Ramsay's *Hist. of So. Ca.*, vol. I, 6, note. The letter is in French.

began the foundation of their handsome fortune by working together at the whip-saw.[1]

It was hoped that these people would have introduced the successful cultivation of vines and the production of oil and silk. Unfortunately, their expectations were disappointed. An attempt was made to cultivate the vine and the olive, but the climate proved insalubrious, the land, except on the margin of the rivers and creeks, was unproductive, and did not reward the care of the cultivator. But though not successful in enriching the country with these valuable commodities, these refugees became a most important and useful part of the population of the colony, and were soon after joined by others of their people like themselves, refugees from religious persecution.

The good will of the King and Lords Proprietors towards these distressed and exiled Protestants has been considered an instance of noble humanity.[2] We cannot so regard it, at least on the part of the Proprietors. Their great desire and purpose at this time was to effect a colonization of their lands. They were seeking emigrants for the province on their own account and for their own advantage, and the sober and industrious character of these people, and, as it was supposed, their peculiar adaptability to the climate and circumstances of Carolina, strongly recommended the scheme of their colonization to their Lordships. So advantageous, indeed, did they regard this immigration that they granted Rene Petit and Jacob Grimard 4000 acres of land each for having secured the addition to their colony.[3] During the years 1685, 1686, and 1687, the Proprietors made sales themselves directly to French refugees, and sent out instruction for lands to be surveyed for

[1] James's *Life of Marion*, Introduction, p. 12.

[2] *Hist. Sketches of So. Ca.* (Rivers), 174.

[3] *Coll. Hist. Soc. of So. Ca.*, vol. i, 102.

them.[1] But only in two instances does it appear that these grants were made upon other terms than payment of the purchase money: and in these they were apparently granted as a bonus for inducing others to emigrate. To Jean François de Genillat, the first of the Swiss nation to settle in Carolina, was granted 3000 acres; and to John d'Arsens, Seigneur de Wernhaut, probably a Belgian, the trustees of the Proprietors were instructed to measure out such quantity of land as he might desire, not exceeding 12,000 acres.[2] Including those to the Swiss and Belgians, grants to the foreign Protestants amounted to more than 50,000 acres. The grants to these people, whether upon sale or for other considerations, were upon the same terms of possession and descent as the lands given or sold to English settlers, notwithstanding the opinion of the latter that the new-comers were aliens in all respects in the colony as they were in the mother country.[3]

Charles II had furnished the first of these emigrants with transportation in the ship *Richmond*, and in the reign of James II considerable collections were made for the refugees who went over to England; and in that of William, £3000 were voted by Parliament "to be distrib-

[1] These grants were as follows: (1685) James du Gué, 500 acres; Isaac Le Jay and Magdalen Fleury *alias* Le Jay, his wife, 500 acres; Charles Franchomme and Mary Baulier *alias* Franchomme, his wife, 500 acres; Nicholas Longuemar, 100 acres; Jean François de Genillat (Swiss), 3000 acres; Arnold Bonneau, 3000 acres; James Le Bas, 3000 acres; (1686) Isaac Le Grand, Siém d'Anarville, 100 acres; James Le Moyne, 100 acres; James Nicholas *alias* Petibois, 200 acres; Henry Augustus Chastaigner, Esq., Seigneur de Cramaché, and Alexander Chastaigner, Esq., Seigneur de Lisle, 3000 acres; John d'Arsens, Seigneur de Wernhaut, 12,000 acres; James Martell, Goulard de Vervant, 12,000; (1687) Joachim Gaillard, 500 acres. *Coll. Hist. Soc. of So. Ca.*, vol. I, 114, 119. But one of these names, *i.e.* Gaillard, is now surviving in South Carolina.

[2] *Coll. Hist. Soc. of So. Ca.*, vol. I, 114, 117.

[3] *Hist. Sketches of So. Ca.* (Rivers), 174.

uted among persons of quality, and all such as, through age or infirmity, were unable to support themselves." The nobility and wealthier portion of refugees remained nearer their old homes in England and on the Continent. Those who ventured to America were generally tradesmen, agriculturists, and mechanics. There were, however, among them some families of ancient lineage and position. In the act "making aliens free," the names and occupations of those who had petitioned the General Assembly are given, and from them we may gather somewhat of the character of these people. These are the occupations which are attached to their names: weavers, wheelwrights, merchants, saddlers, smiths, coopers, shammy-dressers, joiners, gunsmiths, sailmakers, braziers, goldsmiths, blockmakers, planters, watchmakers, silk-throwsters, apothecaries, and one doctor.[1] Sixty-three persons were named in the act, and all other persons desiring to come in under its provisions, and obtain the benefits of naturalization, were required, by its terms, to apply to the Governor and obtain a certificate from him of having taken the oath prescribed. Under this provision, the list of naturalized Huguenots was increased to 154.[2] The artisans generally found a home and employ-

[1] *Statutes of So. Ca.*, vol. II. 132.

[2] "Liste Des François et Suisses . . . who desired naturalization." Edited by Theodore Gaillard Thomas, M.D. New York *Knickerbocker Press*, 1868. Ramsay gives a list of a number of respectable and influential families which sprung from this stock; to wit, *Bonneau*, Bonnetheau, Bordeaux, *Benoist*, Boiseau, Bocquet, *Bacot*, Chevalier, *Cordes*, *Couterier*, Chastaigner, *Du Pre*, De Lysle, *Du Bose*, *Du Bois*, *Desaussure*, Durarque, De la Conseliere, De Leiseline, Douxsaint, *Da Ponte*, Du Bourdieu, D'Harriette, Faucheraud, Foissin, *Fuysoux*, *Gaillard*, Gendron, Gendilliat, *Guerard*, Godin, *Giradeau*, *Guerin*, *Gourdine*, *Horry*, *Huger*, Jeannertte, *Legare*, *Laurens*, *La Roche*, Lerud, Lansac, *Marion*, *Mazÿck*,[a] *Manigault*, *Mouzon*,

[a] The Mazÿcks were not, however, French or Swiss Huguenots. They were Walloons of Liége. The name originally was written de Mazyck; but upon the removal to the Isle de Re was changed to Mazieq, agreeably

ment in Charles Town, while those accustomed to rural pursuits settled in Craven County on the Santee, and some on Cooper River and at Goose Creek, and industriously set to work clearing and cultivating the ground. The larger portion of these settled on the south side of the Santee, where a town or tract was laid out and called "James Town."[1] This portion of the country hence obtained the name of French Santee. Lawson found about fifty families settled on the banks of the Santee. In 1687 six hundred French Protestants were sent to America through the Royal bounty, and most of these, it is said, located in Carolina:[2] but this can scarcely be so, for the Huguenots, including all arrivals, did not reach that number.[3] Randolph enclosed to the Lords of Trade in his letter of

Michau, *Neufville*, *Prioleau*, *Peronneau*, Perdriau, *Porcher*, *Postell*, *Peyre*, *Poyas*, *Ravenel*, Royes, *Simons*, Sarazin, St. Julien, Serre, *Tresvant*. In the eighty years since Dr. Ramsay wrote, some of these families have died out or disappeared. The names of those still living are italicized.

[1] The tract of land was called "James Town," but no town or village was founded.

[2] *The Huguenots* (Samuel Smiles), 435.

[3] The following table was furnished Edward Randolph by Peter Girard. See *Hist. Sketches of So. Ca.* (Rivers), Appendix, 447: —

	People
The number of the French Protestant Refugees of the French Church of Charles Town is	195
The quantity of the French Protestants of the French Church of Goose Creek is	31
The quantity of the French Protestants of y^e^ Eastern branch of Cooper River is	101
The number and quantity of the French Church of Santee is	111
Total of the French Protestants to this day in Carolina	438

to the French idiom. The original orthography was resumed by the emigrant to Carolina, a wealthy merchant, who, upon the Revocation of the Edict of Nantes, escaped, and came to Carolina with a cargo of £1000 sterling, — the foundation of a large fortune which he afterwards made in the trade to Barbadoes and the other West Indies. Howe's *Hist. Presb. Ch.*, 102.

March 16, 1698–99, an estimate of the number of these people as at that time 438.

The Rev. William Screven, a native of Somerset, England, emigrated to America in 1681, and settled at Kittery, in the province of Maine. He was an Anabaptist, and as such his religious views were not in harmony with the "Standing Order" of that province; whereupon he was presented and fined by the County Court "for not frequenting the publique meeting according to Law on the Lords days." The fine was remitted, however, as it appeared that he usually attended "Mr. Mowdy's meetings on the Lords days." He was nevertheless esteemed as a citizen and was rapidly advanced to positions of trust; but his zeal in behalf of his opinions determined him to devote himself to the ministry and to the formation of a Baptist Church in Kittery. Going to Boston, he was ordained on the 11th of January, 1682, and upon his return organized a Baptist Church; but in doing so he met with great opposition from the provincial authorities, was summoned before the County Court at York, examined as to his views upon infant baptism, and thereupon was adjudged guilty of blasphemy, fined, and prohibited from having any private exercises at his own house or elsewhere upon the Lord's Day, either in Kittery or any other place within the limits of the province. Disregarding this injunction, Mr. Screven was "convicted of contempt of his Majestys authority by refusing to submit himself to the sentence of the former court," required to give bond for his good behavior in the future, and committed to jail until he did so. He was released, however, upon his promise to depart out of the province within a very short time. On the 25th of September, 1682, a covenant was entered into and signed, and a "Baptist company" organized, for removal to some other place. They do

not, however, appear to have been in haste to go. As late as October 9, 1683, the "Baptist company" were settled at Kittery; for Screven was summoned again before the court for disregard of the previous order; and again on the 27th of May, 1684, he was summoned "to appear before the General Assembly in June next." As no further mention in reference to Mr. Screven is found in the records of the province, it is probable that he and his company had made all their preparations for removal and before the time of the meeting of the General Assembly arrived, had left their homes on the Piscataqua for a new settlement in Carolina. The place selected for the settlement was on Cooper River, not far from Charles Town; but the exact location is not known, nor the date of their arrival. Mr. Screven called the settlement Somerton, probably from his native place in England.[1] Blake, Axtell, and Morton came to Carolina about the same time. Blake's wife and her mother, "Lady" Axtell, became members of Mr. Screven's congregation. Before 1693 most of the members of the church had removed to Charles Town.[2]

In the year 1696 Carolina received a small accession of inhabitants by the arrival of a Congregational Church from Dorchester in Massachusetts, who, with their minister, the Rev. Joseph Lord, settled in a body near the head of the Ashley River, about twenty miles from Charles Town. The church of Dorchester, Massachusetts, was composed of a company of Puritans who, early in 1630, had sailed from Plymouth, England, and settled in that province. This congregation, which was formed as a missionary enterprise,

[1] To "a confession of Faith of several churches in the county of Somerset and in the counties near adjacent," "William Screven of Somerton," is one of twenty-five subscribers in 1656. This, it is supposed, is the same William Screven, the immigrant to Carolina.

[2] *Hist. of the Baptist Ch., Charleston* (Tupper), 1889.

embarked on the 5th of December, 1695, in two small vessels, and experienced a severe gale on their passage; but both vessels arrived safely in about fourteen days. The colony, treading their way up the Ashley River in quest of a convenient place for settlement, fixed upon a spot which they named Dorchester. Here, in the midst of an unbroken forest, inhabited by beasts of prey and savage men, twenty miles from the dwelling of any white man, they took up their abode, and remained nearly sixty years, keeping together as a distinct community. Finding the situation unhealthy and confined to a tract of land too small for their purposes, they again moved in 1752 and settled at Medway, Liberty County, Georgia. Several families of Colleton County, however, came from the stock, and it is believed that many of the people in that section of the State are derived from this source. The ruins of their fort and of their church may yet be seen near Summerville.[1]

The colony was continually receiving new additions from Barbadoes and the other West India Islands, bringing with them their negro slaves. These were all Church of England people, and formed a great part of the church party in the colony. They settled principally upon the Cooper River; some of them were of the Goose Creek men of whom the Proprietors warned Ludwell to beware.[2]

[1] Howe's *Hist. of the Presb. Ch.*, 120–122.

[2] Sir John Colleton, one of the Proprietors, was from Barbadoes, and so were his two brothers, James, the Governor, and Major Charles Colleton. From that island came Sir John Yeamans, the Landgrave and Governor; Captain John Godfrey, Deputy; Christopher Portman, John Maverick, and Thomas Grey, among the first members-elect of the Grand Council; Captain Gyles Hall, one of the first settlers, and an owner of a lot in Old Town; Robert Daniel, Landgrave and Governor; Arthur and Edward Middleton, Benjamin and Robert Gibbes, Barnard Schinkingh, Charles Bunrill, Richard Dearsley, and Alexander Skeene. Among others from Barbadoes were those of the following names: Cleland, Drayton, Elliot, Fenwicke, Foster, Fox, Gibbon, Hare, Hayden, Lake, Ladson,

The early settlers followed the river courses, and planted themselves upon their banks. There were probably two causes inducing this: the rivers presented the only means of transportation in the absence of roads, and the way also of escape from the Indians. The innumerable creeks, branches, and inlets from the sea, which intersect the low country, presented abundance of room for many years to allow river front to almost every plantation. Then followed the filling up of the islands and peninsulas, the settlements still, however, continuing within easy access to water. The banks of the Ashley were first settled under Sayle, the western bank most thickly. The Cooper River was next followed, and a settlement made upon Goose Creek, its first considerable branch, and also on the east between that river and the Wando. The destruction of Lord Cardross's colony put a stop for many years to any settlement at Port Royal; but the sea islands, those now known as James, John's, and Edisto islands, were soon peopled. The French refugees had pushed up the Cooper, as we have seen, until they had reached the Santee. A map made in 1715[1] shows that the population of South Carolina was still confined almost entirely between the Santee on the northeast and the Edisto on the

Moore, Strode, Thompson, Walter, and Woodward. Sayle, the first Governor, was from Bermuda. From Jamaica came Amory, Parker, Parris, Pinckney, and Whaley; from Antigua, Lucas, Motte, and Percy; from St. Christopher, Rawlins and Lowndes; from the Leeward Islands, Sir Nathaniel Johnson, the Governor; and from the Bahamas, Nicholas Trott, the Chief Justice. Some of these were probably but temporarily on the islands; some had been long-established residents.

This list has been compiled, with the assistance of Langdon Cheves, Esq., from various sources, including *Emigrants to America, 1600–1700* (Hotten).

[1] *Year Book City of Charleston* (Courtenay), 1886. Copied from an original map of principal part of North America, in the library of Thomas Addis Emmet, M.D., of New York.

southwest. Generally speaking, the old English colonists and the Barbadians, who together composed the Church of England people, were settled in Charles Town and upon the Cooper and Ashley rivers; the French Huguenots on the Santee; and English dissenters who had come out with Blake and Axtell upon the Edisto. There were, however, Independents, Baptists, Quakers, and Huguenots in the town.

Berkeley County was thus for the Church of England, Colleton was strongly imbued with dissent, and Craven, while Calvinistic in its tenets, was without hostility to the church. The colonists had crossed the seas and changed their climate, but not their minds; they had brought with them their Old World thoughts, opinions, and prejudices. Indeed, was it not on account of these, and that they might have liberty to enjoy them, that many had deserted their homes and sought refuge in the wild woods of America? All were more or less earnest in their religious convictions and sentiments, and clung to them as matters of vital consequence even while neglecting to be ruled in their lives by the principles they professed. In this small community of less than 6000 there were churchmen from England and Barbadoes, Independents from England, Old and New, Baptists from Maine, and Huguenots from France and Switzerland: all zealous of their peculiar religious tenets and many, if not most, with the tenacity of bigotry and fanaticism. Carolina was a Church of England province under its charter, and the Fundamental Constitutions, while offering the greatest religious freedom, provided only that God was acknowledged and publicly and solemnly worshipped, still provided for the establishment and maintenance of that church. Every one that came to the colony came with full notice of these provisions. Yet the Proprietors

could truthfully write to Archdale that Carolina was looked upon as a place of refuge and safe retreat from arbitrary government and the inconveniences of other places.[1] But it was inevitable that the Old World's animosities must needs soon break out among these various people. They had, indeed, been alive from the very planting of the colony.

It is not certainly known, as we have before observed, when the first clergyman appeared in the colony, or when the first church was built. Dalcho places at the head of his list of the clergy the name of the Rev. Morgan Jones, as arriving in 1660, but does not mention such a person in the text of his work. Dalcho's authority for this is a letter written by this person in New York, March 10, 1685–86, in which he claims to have been sent from Virginia by Sir William Berkeley, to meet the fleet from Barbadoes and Bermuda under West. He states that as soon as the fleet came in, the small vessels with them sailed "up the River" to a place called Oyster Point, where he remained for eight months.[2] If the writer met the expedition, it is clear that he antedated the event by ten years. He states that he remained in the colony at Oyster Point for eight months. It will be observed that the colony first settled Old Town on the Ashley in 1670 and was not removed to Oyster Point until 1680. Nor can we reconcile his statement by supposing it a mere mistake as to the date, for the date was the very point about which his letter was written, the object of it being to show that the title of England to America by possession was prior to that of Spain; moreover, even upon the supposition of a mistake as to the date, we remember that, on June 25, 1670, at the very time Morgan Jones would thus claim to have been in the colony, *i.e.* eight months after the

[1] *Coll. Hist. Soc. of So. Ca.*, vol. i. 138.

[2] *Gentleman's Magazine*, for March, 1740, vol. X, 103, 104.

arrival of the fleet, from March to October, 1670, Sayle wrote to Lord Ashley about the want of a minister, asking that one should be sent, — a request which was renewed by Sayle and others in the September following. The letter we are constrained to believe a mere fabrication.[1] Mr. Bond, for whom Governor Sayle applied in 1670, certainly did not come out.

We have no account of the building of any church in Old Town on the Ashley, though Culpepper supposed that a tract marked out as reserved by the Proprietors was intended for a minister. It is possible that the Rev. Atkin Williamson may have officiated there. The removal of the town took place in 1680, and in the plan of the new town, 1672, as we have seen, a place had been reserved for the building of a church, but no church had been built when Thomas Ash arrived with the first Huguenots in 1680. In a deed dated January 14, 1680–81, by which four acres of land were granted to Mr. Williamson, it is recited that the donors, Originall Jackson and Meliscent his wife, "being excited with a pious zeal for the propagation of the true religion which we profess, have for and in consideration of the divine service according to the form and liturgy now established to be duly and solemnly performed by Atkin Williamson cleric his heirs and assigns for ever in our church or house of worship to be erected and built upon our piece or parcel of ground."[2] It is not known that Mr. Jackson owned any land in or near the town. He did own land on the Wando or Cooper River. The description of the land in the deed does not allow of its identification. It is probable that this was an attempt to establish a church

[1] It is strange that Bishop Perry, in his *Hist. of the Amer. Episcopal Ch.* (vol. I. 372), should have adopted this extraordinary statement without examination, particularly as it was inconsistent with his statements in the very next paragraph of his work.

[2] Dalcho's *Ch. Hist.*, 26.

in the country in which Mr. Williamson was expected to officiate, as well as in the town;[1] but this is mere conjecture. Mr. Williamson, in 1709, petitioned the General Assembly "to be considered for his services in officiating as minister of Charles Town"; and the act of 1710–11, appropriating £30 per annum for his support, states that he "had grown so disabled with age, sickness and other infirmities, that he could no longer attend to the duties of his ministerial function, and was so poor that he could not maintain himself."[2] As we have before concluded, it is possible that Mr. Williamson came out in 1680. There was a clergyman in Carolina in 1689, for it was one of the tyrannical acts of Colleton that he fined and imprisoned him for preaching what he considered a seditious sermon;[3] but who this was, whether Mr. Williamson or another, is not known. Mr. Marshall, as we have just seen, had come out to be the minister at Charles Town, but died of yellow fever in 1699, before he had been three years in the province.

Mr. Marshall was an amiable, learned, and pious man, whose conduct and talents had given great satisfaction, and during whose short career much was done to establish the church upon a firm basis. Though Governor Blake was not himself a churchman, an act was passed during his administration, October 3, 1698, "to settle a maintenance on a minister of the Church of England in Charles Town." Oldmixon claims great credit for his patron, Governor Blake, for the passage and allowance of this provision as an act of grace upon his part, though he was a dissenter;[4] but the recital of the act

[1] Bishop Perry is again mistaken in supposing that it was upon this land that the first church, *i.e.* St. Philip's, was built.

[2] Dalcho's *Ch. Hist.*, 32. *See ante*, p. 332.

[3] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 410.

[4] Oldmixon, *Carolina*, Carroll's *Coll.*, vol. II, 417.

(which is important, too, in regard to what was soon to follow) places its enactment upon the proper ground, namely, that of a compliance with the charter of the provision.[1]

The act appropriated a salary of £150 per annum to the ministers of Charles Town, and directed that a negro man and woman and four cows and calves be purchased for his use, and paid for out of the public treasury.[2] In the same year, Affra Coming, the widow of John Coming, made a deed, by which she gave to the Rev. Samuel Marshall, minister of the Gospel in Charles Town, and to his successors, appointed under the act just passed, seventeen acres of land adjoining the town as a glebe. Upon the death of Mr. Marshall, the Governor and Council addressed a letter to the Bishop of London, asking him to send another minister, telling him of the provision made for his support, and

[1] Dr. Humphrey, the secretary and historian of the "Society for the Propagation of the Gospel in Foreign Parts," states that upon an inquiry instituted by Dr. Compton, Bishop of London, it was ascertained that though in the year 1701 there were above 7000 persons besides negroes and Indians in South Carolina, and though the province was already divided into several parishes and towns, there was until the year 1701 no minister of the Church of England resident in the colony at the time. (*Hist. Account of the Soc. for the Propagation of the Gospel*, etc., 25.) This statement is altogether inaccurate: (1) There were not that number of persons in the colony at the time (Drayton's *View of So. Ca.*, 193; Dalcho's *Ch. Hist.*, 39); (2) the province was not then divided into parishes; there was but one town; and (3) there were at that time at least two ministers of the Church of England resident and officiating in the colony. The Rev. Samuel Marshall, rector of St. Philip's, had died in 1699, but Mr. Edward Marston had arrived and taken his place in 1700. The Rev. William Corbin was officiating in Goose Creek; and the Rev. Atkin Williamson was also in the province, though probably disabled.

[2] Dalcho's *Ch. Hist.*, 33. This act is not found in the statutes. The salary was probably payable in currency.

that a good brick house had been built for him upon the land given by Mr. Coming.

The first church, which was known as St. Philip's, was built, as before stated, upon the spot reserved for it, upon the original plat of the town, *i.e.* where St. Michael's now stands. Dalcho fixes the date of the erection at about 1681 or 1682, but there is nothing certainly known upon the subject. It was "large and stately," it was said, and was surrounded by a neat white palisade. It was built of black cypress upon a brick foundation. Mrs. Blake, wife of the Governor, subsequently contributed liberally towards its adornment, though not herself a member of the church.[1]

The Rev. Francis Mackensie, a Presbyterian clergyman of Donegal, Ireland, it is said, visited Carolina in the fall of 1683, with serious thoughts of settling at Charles Town; but from the little encouragement he received, he changed his destination to Virginia.[2] Of the Rev. William Dunlop, who came out with the Scotch colony and settled at Port Royal in 1684, we have already spoken.[3]

The mixed Presbyterian and Independent Church, known by various names, — the Presbyterian Church, the White Meeting,[4] the Independent Church, the New England Meeting, the Circular Church, — was first organized some time between 1680 and 1690. It was at first composed of Presbyterians chiefly from Scotland and Ireland, Congregationalists from Old and New England, and some of the French Huguenots, who were strictly Presbyterian in their form of church government. The first known

[1] Dalcho's *Ch. Hist.*, 26.

[2] Howe's *Hist. Presb. Ch.*, 76, 77.

[3] *Ante*, p. 215.

[4] Whence the name of "Meeting Street."

Presbyterian minister in the province, excepting the Rev. William Dunlop at Port Royal, was the Rev. Thomas Barret, in 1685. His ministry was but temporary. The first regular pastor was the Rev. Benjamin Pierpont, in 1691. He died January 8, 1697–98, and was succeeded by a Mr. Adams, of whom little is known; and he by John Cotton of Boston, who sailed from Charles Town November, 1688, and died September, 1699; and he by the Rev. William Stobo, upon his providential escape from the disastrous shipwreck and stranding upon the shores of Carolina. It is not known when the original building used by the church was erected. It was but forty feet square and slightly built.[1] The site whereon the present church stands was given by "Madame Symonds" October 23, 1704. It was long known as the "White Meeting."[2]

The first church of the French Protestants, known as the Huguenot Church, was erected at some time between the years 1687 and 1693. On the 5th of May, 1687, the lot whereon the present church stands was conveyed by Ralph Izard and Mary, his wife, to James Nichols "for the use of the commonalty of the French Church in Charles Town";[3] and in 1693, the congregation complained to the Lords Proprietors that they were required to begin

[1] Howe's *Hist. Presb. Ch.*, 124, 126, 145.

[2] *Ibid.*, 124.

[3] It has been supposed probable that the Huguenots built their first sanctuary upon the site of the present church early in the year 1681. (See *Year Book City of Charleston*, 1885, 297.) This theory is based upon the supposition that Michael Lovinge, the grantee of this lot, was but a trustee for the church. But the record shows that this is a mistake. Michael Lovinge, the grantee, described as a "sawyer," conveyed the lot to Arthur Middleton, the 24th of November, 1684. Arthur Middleton by will devised it to his daughter Mary, who, with her husband Ralph Izard, conveyed it to James Nichols for the church, as stated in the text. See Records, *Secretary of State's Office Book*, marked "Grants, Sales," etc., 1694–1698, 250.

their divine worship at the same time as the English do, which was very inconvenient, as several of them lived out of the town and came by water to attend their service, and had to depend upon the tides.[1] There must, then, have been a place of worship in which the congregation was accustomed to assemble before 1693, and it is but reasonable to suppose that this was upon the spot they had purchased for the purpose.[2] The Rev. Elias Prioleau, pastor of the church at Pons, who, upon the Revocation of the Edict of Nantes, left France with a considerable number of his congregation in April, 1686, and came to Carolina, is regarded as the founder of this church in conjunction with the Rev. Florente Philippe Trouillard, who were its first ministers. They served the church as colleagues, and probably without compensation, both ministers and people being dependent alike on secular employment.

One César Moze, a French refugee, by his will written in his native language, dated June 20, 1687, bequeathed to the church of the French refugees in Charles Town, *trente sept lieures* (thirty-seven livres) to assist in building a house of worship in the neighborhood of his plantation on the eastern branch of the Cooper River.[3] As already mentioned, it is probable that Elias Prioleau ministered to this congregation. The Rev. de La Pierre is supposed to have been their first pastor. There was another settle-

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 438.

[2] Howe's *Hist. Presb. Ch.*, 109. Mr. Fraser, in his *Reminiscences of Charleston*, says that the great fire of June, 1796, "burnt the original French Church where the Huguenot refugees worshipped for upwards of a century previous to that time." (pp. 33, 34.) But Shecut states that the original church (which he says was built in 1701) was burnt in 1740 with all its records.

[3] Probate office, Charleston, South Carolina, *Will Book;* Howe's *Hist. Presb. Ch.*, 105.

ment and church of the Huguenots on the western branch of Cooper River, of which Anthony Cordes, *un médecin*, who arrived in Charles Town in 1686, was one of the founders. Their first pastor was Rev. Florente Philippe Trouillard, whom we have just found associated with Elias Prioleau in the pastorship of the church in Charles Town. The Rev. Pierre Robert was the first pastor of the church in French Santee. Indeed, he is said to have been the first Calvinistic minister who preached in South Carolina; and it is deemed questionable whether this church was not older even than that in Charles Town. The Huguenots on Goose Creek are not known to have formed an organized congregation.[1]

Most of the members of the Baptist colony had moved to Charles Town before 1693. At first their meetings were held in the house of William Chapman in King Street. In 1699 William Elliott, one of the members, gave the church the lot of land on Church Street on which the First Baptist Church in Charleston now stands, and a house of worship was erected on this lot in that or the year following.[2]

No considerable groups of settlers are known to have emigrated to South Carolina between the years 1696 and 1730, nor does the white population appear to have in-

[1] Howe's *Hist. Presb. Ch.*, 111–113. There is, however, an old plat of a plantation on one of the head branches of Goose Creek, made by Joseph Purcell, Surveyor, in July, 1785, on which a spot is marked "Remains of a French Church." See Deed, *Mesne Conveyance Office Book G*, No. 6, 95.

[2] *Hist. of the First Baptist Ch.*, 55. The first church building was, however, abandoned for another built on the east side of the street in 1746, the old lot on the west side continuing to be the burial-ground of the members. The present edifice on the old lot on the west side was erected in 1822, and the building on the east became the Mariners' Church, which was destroyed in the earthquake of 1886. See Sheutt's *Essays*, 5, 29.

creased at all until after 1715. In 1699 it was, as we know, probably about 5500. In 1708, as we shall hereafter see, it had actually declined to 4080. There was a decrease also in the number of negroes during this period. The losses by smallpox and yellow fever will probably account for much of this; but the neglect and mismanagement of the Proprietors, and the struggle over the establishment of the church which we are soon to record, no doubt retarded the progress of the colony. We may assume, therefore, that the proportion of the various denominations in the colony was about the same in 1710 as it was at the time of which we are now treating. In a letter written in that year by a Swiss gentleman in Charles Town to his friend at Bern, it is stated that the proportions that the several parties in religion bore to the whole and to each other were as follows: Church of England $4\frac{1}{4}$ to 10; Presbyterians, including those French who retained their own discipline, $4\frac{1}{2}$ to 10; Anabaptists 1 to 10 and Quakers $\frac{1}{4}$ to 10.[1] In this estimate, for it is nothing more, Independents and Congregationalists, as well as Huguenots, are included as Presbyterians. There were in the colony at this time eight ministers of the Church of England, three French Protestants, two of whom had accepted Episcopal rule and observed the services of the church, four of British Presbyterians, one of Anabaptists. The ministers of the Church of England had, by the act of 1706, each £100 per annum from the public treasury besides contributions and perquisites from their parishioners. The dissenting ministers were maintained by voluntary contributions.[2]

In 1701 a movement was consummated in London by

[1] Howe's *Hist. Presb. Ch.*, 163; *A Letter from So. Ca.*, etc., London, 1722 (second edition), 46.

[2] *Ibid.*, and Dalcho's *Ch. Hist.*, 432.

the formation and incorporation of "The Society for the Propagation of the Gospel in Foreign Parts," which exercised a great influence in this colony, not only in religious matters, but in the education of its youth. Several eminent persons, observing the want of clergy in the colonies of England and probably also the unfortunate character of some who had gone out to the provinces, had for some time before contributed to an effort for recovering their countrymen abroad from irreligion and darkness. Fellowships had been established in Oxford, the beneficiaries of which should be under obligation to take holy orders for service in his Majesty's foreign plantations, and salaries were provided for "preaching ministers."

The society resolved not to obtrude the Episcopal services upon the colonists against their wishes. They did not, therefore, send missionaries until applications were made for ministers of the Church of England, nor until they were assured that adequate means would be provided for their comfort and support. So liberal, indeed, was this society that in some instances they supported clergymen who were not episcopally ordained. As instances: the two Huguenots, the Rev. de La Pierre of St. Denis and Rev. P. de Richbourg of St. James, Santee (1715–20). The society was very minute in its instructions to the clergy they employed. They were to keep in view the great design of their undertaking; to promote the glory of Almighty God and the salvation of men, by propagating the Gospel of our Lord and Saviour. The directions in regard to the instruction of negroes were still more minute and explicit, containing the simple statement in logical order and consequence of the substance of the Christian religion.

The society was equally careful in its directions to their schoolmasters, and impressed upon them that the end of

their employment was the instructing and disposing children to believe and live as Christians. They were required to oblige their scholars to attend regularly upon the services of the church and to have them publicly catechised. "They were to take special care of their manners both in and out of school; warning them seriously of those vices to which children are most liable; teaching them to abhor lying and falsehood and to avoid all sorts of evil speaking; to love truth and honesty: to be modest gentle well-behaved, just and affable, courteous to all their companions; respectful to their superiors particularly towards all that minister in holy things and especially to the minister of their Parish."[1]

These instructions of the society are particularly pertinent to the history of South Carolina, as it was in this province that the society commenced its labors, and indeed did the most of its work. Its influence remained not only in the religious sentiment of the people, but in their system of education, which the masters from Oxford sent out by them, based upon a classical foundation.

The first missionary sent out by the society upon the application of the Governor and Council was the Rev. Samuel Thomas, who was appointed in June, 1702. His original mission was not to the colonists, but to the Yamassee Indians, who surrounded the settlements; but Governor Johnson, not deeming it a convenient season for that duty, appointed him to the care of the church at Goose Creek. His ministry, however, though attended with considerable success, was but a brief one; on his return from England, to which he had gone on a visit, he died in 1705.

[1] Dalcho's *Ch. Hist.*, 50.

CHAPTER XV

1700

At the opening of the new century, says Rivers, we must cease to look upon South Carolina as the home of indigent emigrants struggling for subsistence.[1] The colony had now substantial numbers, and its various elements had begun to settle themselves into somewhat of a community. The spirit of adventure had, in a measure at least, given way to the more sober purpose of citizenship. A review of its material condition will show what had been accomplished in the thirty years since the arrival of the first emigrants.

The population, which, as we have seen, was about 5500 besides Indians and negroes, was still clustered around the town in a comparatively small area; more than half, about 3000, were inhabitants of the town. There were, at least, 250 families residing in it, many of them having ten or twelve children each. The town still, however, comprised only the space between the bay and the present Meeting Street. The principal street running through its whole length was the present Church Street. The cross streets were Queen, Broad, Elliot, and Tradd, though not then bearing these names. It was fortified, says Oldmixon, more for beauty than strength. It had six bastions, and a line all around it. There were three bastions on Cooper River. Craven Bastion was on the northeast corner of the town, at the end of what is now Market Street;

[1] *Chapter in Colonial Hist.* (Rivers).

Blake's Bastion at the end of Broad Street, about where now stands the Old Exchange, the postoffice; Granville's Bastion stood where the battery now begins. From this point a creek ran up what is now Water Street, and a line of palisades extended on its northern bank, through what is now Stoll's Alley and the Baptist churchyard, to the corner of Tradd Street; thence along what is now Meeting Street to Cumberland; the northern line running diagonally from about the corner of Meeting and Cumberland to what is now Market Wharf. At the intersection of Broad Street was a half-moon, a little later called Johnson's Raveline, across which there was a drawbridge. Carteret Bastion was on the northwest corner, where Cumberland and Meeting streets now meet.

The only public buildings were the churches, an account of which was given in the last chapter. Charles Town was the market town, and thither the whole product of the province was brought for sale.[1] Archdale declares that the road out of the town, which he says was called the Broadway, was so delightful a road and walk, so beautiful with odoriferous and fragrant woods, and pleasantly green all the year, that he believed no prince in Europe, by all his art, could make so pleasant a sight.[2] There were also several fine streets in the town, says Oldmixon, and some very handsome buildings, as Mr. Landgrave Smith's house on the bay, with a drawbridge and wharf to it; Colonel Rhett's, also on the bay, and with drawbridge and wharf. He mentions also Mr. Boone's, Mr. Logan's, Mr. Schinkingh's, and ten or twelve others which deserve notice. There was a public library in the town, he says, and a free school was talked of.[3]

[1] *British Empire in Am.*, vol. I, 510 (Oldmixon).
[2] Archdale, in Carroll's *Coll.*, vol. II, 95.
[3] *British Empire in Am.*, vol. I, 511.

Lawson, who wrote about the same time, gave this description:[1] —

"The Town," he says, "has very regular and fair Streets in which are good Buildings of Brick and Wood, and since my coming thence has had great Additions of beautiful, large Brick building besides a strong Fort and regular Fortifications to defend the Town. The inhabitants by their wise Management and Industry have much improv'd the Country which is in as thriving Circumstances at this time as any Colony on the Continent of *English* America, and is of far more Advantage to the Crown of *Great Britain* than any of the other more *Northerly* Plantations (*Virginia* and *Maryland* excepted). This colony was at first planted by a genteel sort of People that were well acquainted with Trade and had either Money or Parts to make good use of the Advantages that offered as most of them have done by raising themselves to great Estates and considerable Places of Trust and Posts of Honour in this thriving Settlement. Since the first Planters abundance of *French* and others have gone over and rais'd themselves to considerable Fortunes. They are very neat and exact in Packing and Shipping their Commodities; which Method has got them so great a Character abroad that they generally come to a good Market with their Commodities, when often times the Product of other Plantations are forc'd to be sold at lower Prizes. They have a considerable Trade both to *Europe* and the *West Indies* whereby they become rich and are supply'd with all Things necessary for Trade and genteel Living which several other Places fall short of. Their cohabiting in a Town has drawn to them People of most Sciences, whereby they have Tutors amongst them that educate their Youth a-la-mode."

[1] *A New Voyage to Carolina*, etc., 2, 3.

The first act in order of time found remaining when the statutes were compiled in 1837 was one entitled "*An act for the settling of a pilot*," April 11, 1685.[1] It was, however, so defaced as to be illegible, but we have preserved one passed under Sothell, March 25, 1691, no doubt based upon that of 1685. This appointed three regular pilots who were required to make it their business to look out for ships coming into the harbor, regulating their conduct and prescribing the rates of pilotage.[2] In 1694 an addition to this act was made providing for the maintenance of a watch on Sullivan's Island as well.[3] In 1696 this was again added to and amended, and rates for bringing in vessels by the different channels prescribed.[4] These pilots Lawson found on duty when he arrived in 1700.[5] There was need of them; for from the town could now be seen entering the harbor vessels from Jamaica, Barbadoes, and the Leeward Islands, from Virginia and the other colonies, and the always welcome ships from England. About twelve of these ships were owned by the colonists, half of which were built by themselves.[6] These were, however, small: for, unhappily, the bar across the mouth of the harbor admitted no ships of above 200 tons.[7] Archdale, writing in 1707, says he could demonstrate what a great advantage Carolina is to the trade of England by consuming commodities from thither, and by bringing great duties to the

[1] *Statutes*, vol. II, 3.
[2] *Ibid.*, 50.
[3] *Ibid.*, 93.
[4] *Ibid.*, 127.
[5] *A New Voyage to Carolina*, 6.
[6] *Chapter in Colonial Hist.* (Rivers).
[7] *British Empire in Am.*, vol. I, 570.

Yet in an offer made by the Assembly in 1703 to supply a frigate with provisions, if one should be sent from England to cruise on the coast, it is said that Charles Town bar had "thirteen feet of water at high tide-water at neap tides, and thirteen feet at spring tides at least," and Port Royal eighteen feet at low tides and twenty-four at high water on ordinary tides. *Hist. Sketches* (Rivers), 202, note.

Crown by importing goods or commodities thence: "For Charles Town trades near 1000 miles into the continent." That notwithstanding all the discouragements the town had met withal, yet seventeen ships that year came thence to London in the Virginia fleet laden from Carolina with rice, skins, pitch, and tar, besides several stragglers.[1]

The neck of land between Cooper and Ashley rivers, about six miles in length, was well settled. One passed about this time, in riding up the road which Archdale described as so beautiful, the plantations of Mathews, Green, Starkey, Gray, Grimball, Dickeson, and Izard on the Cooper: and further up those of Sir John Yeamans, Landgrave Bellinger, Colonel Gibbs, Mr. Schenkingh, Colonel Moore, and Colonel Quarry. On the Ashley Landgrave West, Colonel Godfrey, and Dr. Trevillian had plantations. Goose Creek was thickly settled. On the western branch of the Cooper River the most noted plantations were "Coming T," the plantation of Captain John Comings, the same who had come out with Halsted, and Sir Nathaniel Johnson's "Silk Hope." In Colleton County lived Colonel Paul Grimball, Landgraves Morton, Blake, and Axtell, and Mr. Boone. There were two small towns or hamlets besides Charles Town, — Wiltown or New London on the South Edisto, containing about eighty houses, and Dorchester at the head of the Ashley, containing about 350 souls.[2]

The Governor generally resided in Charles Town and the Assembly sat there, as well as the newly established courts. There also the public offices were kept and the business of the province transacted.

The first fortunes in Carolina were made in the Indian trade, a trade which the Proprietors jealously endeavored

[1] Carroll's *Coll.*, vol. II, 97.

[2] *British Empire in Am.*, vol. I, 512, 513.

to appropriate to themselves. Guns, powder and shot, beads, trinkets, bright-colored cloaks, blankets, and rum were exchanged for skins and furs of wild animals and other Indian pelfry. With the exception of rice, the furs and skins obtained from the Indians continued to be the most valuable commodity in the colonial trade as late as 1747.[1]

Dr. Henry Woodward, it will be remembered, was the first explorer of the province. From his sojourn with the Indians, when left by Sandford in 1666, he became an interpreter of their languages, and as such was employed by the Governor and Council in their communications and treaties with them. In 1671 Sir John Yeamans sent him to Virginia upon an expedition of discovery, upon which occasion, reciting the hazardous and dangerous nature of the adventure he was about to undertake, he executed a will of all his property in Sir John's favor, which will is among the first records of the colony.[2] There were many complaints to the Proprietors of this mission, implying that the expedition was for the private advantage of Sir John and himself. Dalton, the Secretary, wrote that it might "be dangerous to follow the fancies of roving heads," and asked that a skilful engineer should be sent.[3] Woodward was still employed, however, by the Proprietors, and in 1674 was commissioned to treat with the Indians of Edisto for the purchase of that island, and was allowed to have one-fifth of the profits of the Indian trade.[4] He was evidently not a favorite of Governor West, during whose administration he appears to have

[1] Governor Glen's *Description of So. Ca.*, Carroll's *Coll.*, vol. II, 234–237.

[2] Probate office, Charleston, South Carolina, and Secretary of State's office, Columbia, South Carolina.

[3] *Calendar State Papers, Colonial*, 1670–74, 736–746.

[4] *Ibid.*, 1287.

been convicted of some misdemeanor by the Grand Council and condemned to pay £100; a part of which he paid, and left the province. The Proprietors, however, pardoned him; and again, on the 23d of May, 1682, commissioned him to return to Carolina and make further explorations.[1] There is no account of his subsequent career.

In Archdale's time, as we have said, Charles Town traded near 1000 miles into the Continent.[2] Among the principal Indian traders were Colonel Bull, Governor Blake, and James Moore.[3] James Moore, who first appeared as one of the leaders of the people in 1684, was also a great adventurer and Indian trader. He was a member of the Council as deputy of Sir John Colleton, and Secretary of the province. He it was of whom Randolph wrote to the Lords of Trade, in March, 1698–99, that he had heard one of the Council (a great Indian trader who had been 600 miles up in the country west of Charles Town) declare that the only way to discover the Mississippi was from the province by land. This he was willing to undertake if his Majesty would pay the charge of the expedition, £400 or £500. He proposed to employ 50 white men and 100 Indians, and had no doubt but that in five or six months after his Majesty's commands he would find its mouth and latitude.[4]

The real object of this expedition Moore proposed was not, however, the discovery of the Mississippi, but the exploring of gold and silver mines. In 1691 he had made a journey into the Appalachian Mountains, in which journey he had found several pieces of ore which he had sent to England to be assayed, and some of which had been

[1] *Public Records of So. Ca.* (MSS.), vol. I. 159.

[2] Carroll's *Coll.*, vol. II. 97.

[3] *Ibid.*, 198; *Coll. Hist. Soc. of So. Ca.*, vol. I, 217.

[4] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 445.

reported to be very valuable, and he now wished to make further exploration at his Majesty's expense. In the meanwhile, one Thomas Cutler had come out with a commission from the Lords of Trade to search for mines, but he was wholly inexperienced in the matter, and relied entirely upon the stories which two brothers-in-law of his in Carolina, Edward Loughton and David Maybanck, had gathered from the Indians. Moore soon persuaded Cutler that he alone possessed the necessary information and skill to find and develop the mines, and induced him to return to London to represent to the Board of Trade that he, Moore, was a person of known experience, judgment, and great power among the Indians, and had more perfect knowledge of the mines than those they had first relied upon. The Board of Trade, however, very curtly informed Mr. Cutler and his friend, Mr. Smith, who accompanied him, "that their Lordships do not concern themselves nor meddle in what Captain Moore desires of them & what they the said Smith and Cutler think fit to do upon his request."[1] We hear no more of the mines in Carolina.

Both cotton and rice had been exported from Carolina before the end of the seventeenth century. Hewatt and Ramsay credit Landgrave Smith with the introduction of rice culture. The former gives an interesting story of a bag of seed rice, obtained by him from a brigantine from the Island of Madagascar, touching here on the way to Great Britain in 1693, and his distribution of it between Stephen Bull, Joseph Woodward, and some other friends, who agreed to make the experiment, and planted their several parcels in different soils.[2] But Rivers very properly declines to adopt this account, and points to an act of

[1] *Hist. Sketches of So. Ca.*, Appendix, 447, 452.

[2] Hewatt's *Hist. of So. Ca.*, vol. I, 118; Ramsay's *Hist. of So. Ca.*, vol. II, 206.

Assembly in 1691 conferring a reward upon Peter Jacob Guerard, inventor of a "Pendulum engine" for husking rice, which it was said was superior to any machine *previously used* in the colony.[1] Rice was, with indigo, one of the plants to be tried by West on the experimental farm under instructions of July, 1669.

In a bill of lading, 1671, from London, per ship *William and Ralph* bound for Charles Town, Ashley River, there was, among other articles in the cargo, "a barrel of Rice." Mayor Courtenay, in his address upon the centennial of the incorporation of Charleston, quotes from a curious pamphlet by a gentleman in 1731, long resident in Carolina, "Dr. Woodward's" name, mentioned as receiving a parcel of seed rice from "Madagascar." Dr. Woodward appears, however, to have been ignorant for some years how to clean it for use. He quotes also from this pamphlet that it was likewise "reported that Du Bois, Treasurer of the East India Company, did send to Charles Town at an early date a small bag of seed rice, some short time after Dr. Woodward's planting of Rice, from whence it is reasonable enough to suppose might come those two sorts called Red Rice — from the redness of the inner husk — and white Rice, though they both clean and become white alike."[2] From these accounts it is quite certain that rice was received from Madagascar and experimented upon by Smith, Bull, Woodward, and others, but had been introduced and planted before. However introduced, rice soon became the staple commodity of the province, and the advantageous employment of Africans in its cultivation greatly increased the demand for negro slaves. The wet, deep, miry soil of the cypress swamp, in which rice was found to grow so luxuriantly, especially when turned in

[1] *Hist. Sketches of So. Ca.* (Rivers), 172; *Statutes*, vol. II, 63.

[2] *Year Book City of Charleston* (Courtenay), 1883, 395.

cultivation, proved to be fatal to the white man, but congenial to the negro from Africa.

Notwithstanding the failure of the Huguenots to establish the manufacture of silk, the attempt was made by Sir Nathaniel Johnson upon a plantation settled by him in what was afterwards St. Thomas' Parish, called Silk Hope, and in 1699 he was able to present to the Proprietors a sample of silk made by him.[1] When Oldmixon wrote (1707), Sir Nathaniel was making from £300 to £400 yearly from silk alone. Others, encouraged by him, also experimented, and some families were then making from £40 to £50 a year without neglecting their other plantation work. Little negro children were employed in feeding the silkworms. Silk and wool were manufactured into druggets.[2] As mulberry trees grow spontaneously in Carolina, and native silkworms producing well-formed cocoons are often found in the woods, it appears that this country was well adapted to the development of the industry; but though again tried by the Swiss near Purysburg in 1731, and again by the French colony at New Bordeaux, Abbeville, in 1764, its manufacture has never been persevered in, probably, says Dr. Ramsay, because there were easier modes of making money.[3]

The produce of the Indian trade, rice, and the silk that was made, were sent to England; beef, pork, corn, peas, butter, tallow, hides, tanned leather, hogshead and barrel staves and hoops to the West Indies. Though there were no cattle in the province upon the first coming of the colony, they had increased to such an extent in thirty years that not only did beef and pork constitute two of the principal commodities of export, but wild cattle became

[1] *Coll. Hist. Soc. of So. Ca.*, vol. I. 149.

[2] *British Empire in Am.*, vol. I. 517.

[3] Ramsay's *Hist. of So. Ca.*, vol. II. 229.

almost as great a nuisance in Carolina as the rabbit in later years in Australia. In 1695, as we have seen, an act had been passed for destroying unmarked cattle in consequence of the inability of penning and marking them at that time, by reason of a hurricane which had rendered the woods difficult of travel. Eight years afterwards another act upon the subject was deemed necessary. This act, which recited that the great numbers of wild, unmarked, and outlying cattle had drawn the tame cattle from their ranges, and also ate up the winter food, curiously assuming that every master or mistress of a plantation owned "such cattle," required every owner of a plantation who would not swear that, to the best of his knowledge, he did not own 100 head to any one or more of his stock houses or cow pens to send one man for every 100 head to commissioners appointed under the act to hunt for, kill, and take wild and unmarked cattle. The men so sent were to be mounted, and to hunt under the direction of the commissioners. The owners of any marked cattle taken up in this way were allowed to claim and prove their property under provision of the act.[1] This prolific produce of cattle in the swamps of the low country was the origin of the stock law of South Carolina which so long impeded the full cultivation of the soil by requiring planters to maintain fences to keep out cattle from their plantations and farms, rather than the owners of cattle to provide enclosures for keeping them in: a policy which existed and extended all over the State for more than two hundred years, being only abandoned in the year 1882.[2] Oldmixon states that some persons had 1000 head of black cattle each. For one man to have 200 was very common. Hogs were in great abundance, roving for miles, feeding

[1] *Statutes of So. Ca.*, vol. II, 220.
[2] *Ibid.*, vol. XVII, 591.

on nuts and roots.[1] Lawson says that the stocks of cattle were incredible, being from 1000 to 2000 head in one man's possession.[2]

The black cattle did not, however, have the swamps to themselves: these regions were still alive with beasts of prey, from which the planters suffered much, and so rewards were offered in 1703 for their destruction; a white man was offered 10*s.* for every wolf, tiger (panther), or bear killed by himself or his slave and 5*s.* for every wild cat; an Indian was offered 5*s.* for every wolf or tiger and 2*s.* 6*d.* for every wild cat.[3]

The first attempt to establish a postoffice in the colony was made in 1698. In an act for raising a public store of powder, provision was made requiring every master of a ship arriving in the province to deliver all the letters in his custody, with an exact list of them, to Mr. Francis Fidling and to no other, and this list Mr. Fidling was required to fix up in some public place in his house, to be viewed by persons who desired to do so. He was to deliver the letters to whom they were addressed and to mark the delivery on the list. He was to receive for each letter or packet one-half royal postage.[4] In 1702 another act upon the subject was passed, entitled "*An act to erect a General Postoffice*"; but it did little more than appoint Mr. Edward Bourne postmaster in place of Mr. Fidling.[5]

In the same year that a postoffice was established in the

[1] *British Empire in Am.*, vol. I, 520, 521.

[2] *A New Voyage to Carolina*, 4.

[3] *Statutes of So. Ca.*, vol. II, 215.

[4] *Ibid.*, 153, Section X, of an act entitled "*An act for the raising of a public store of Powder for the defence of the province.*"

[5] *Ibid.*, 189. In 1692 a Royal patent was granted to Thomas Neale to establish postoffices in America, which was recognized by an act of Assembly in Virginia. Bruce's *Economic Hist. of Va.*, vol. II, 240. We find no mention of it in Carolina.

colony, *i.e.* in 1698,[1] a public library was formed by the efforts of the Rev. Thomas Bray, the Bishop of London's commissary in Maryland, with the aid of the Lords Proprietors and contributions of the Carolinians, and was placed under the charge of the minister of the Church of England. This, it is believed, was the first public library in America. In the year 1700 an act was passed "*for securing the Provincial Library at Charles Town*," by which commissioners and trustees were appointed for its preservation.[2] On the 16th of January, 1703, Nicholas Trott informs the House of Commons that Dr. Bray had sent sundry books as a further addition to the public library, together with additional books for a layman's library, upon which he was instructed to write to Dr. Bray returning thanks for them.[3] In May following the Receiver was instructed to pay Edward Moseley £5 15*s.* for transcribing the catalogue of the library books.[4] In the church acts of 1704 and of 1706 a room was reserved in the rectory of the minister of Charlestown for this library;[5] and in that of 1712, also reserving the room in the parsonage, other commissioners were named in the place of five who had died, and provision was supplied for supplying vacancies thereafter. The provision of this latter act we shall give more fully hereafter. By the first act all inhabitants, without any exception, were at liberty to borrow any book out of the library, giving a receipt for the

[1] *Hist. Sketches of So. Ca.* (Rivers), 231; MSS. *Journals House of Commons*, 1698.

[2] These commissioners were James Moore (then Governor), Joseph Morton, Nicholas Trott, Ralph Izard, Esq., Captain Job Howes, Captain Thomas Smith, Mr. Robert Stevens, Mr. Joseph Crosskeys, and Mr. Robert Fenwicke. *Statutes of So. Ca.*, vol. II, 374.

[3] MSS. *Journals*, 1703.

[4] *Ibid.*

[5] *Statutes of So. Ca.*, vol. II, 237, 286.

same; but, as we shall see, the act of 1712 put it in the power of the librarian to refuse to lend books in certain cases. There were also parochial libraries established by the Society for the Propagation of the Gospel and afterwards by Sir Francis Nicholson and other charitable persons. These the commissioners were also instructed to examine by the catalogue. The parochial libraries were probably only of religious works; but the public library in Charlestown was a library for laymen as well.[1]

As before suggested, the Barbadian element in the colony naturally exerted the greatest influence upon the development of its society. The charter required that the laws should be as near as may be to the laws of England; but these were also to be suitable to the novel conditions of the new province. In the other colonies of America society was built up from its very foundations upon the peculiar circumstances of each. Its structure in each instance was entirely new. But many of the earliest settlers of Carolina coming from Barbadoes, where a colonial society was already fully developed, as before observed, brought with them customs and precedents upon which that of South Carolina was formed.

In 1674 upon the Island of Barbadoes, which was not much larger than the Isle of Wight, there were 50,000 whites and 80,000 negroes, — 130,000 souls in all. In fifty years, since the foundation of the English colony there, a social order had been established and developed upon the basis of African slavery. As it was this which the Barbadians brought with them to Carolina, some account of its condition at this time will not here be out of place.

Oldmixon tells us that the inhabitants of Barbadoes

[1] *Statutes of So. Ca.*, vol. II. 374. The new commissioners under this act were Hon. Charles Braun, Governor Arthur Middleton, Charles Hart, Colonel George Logan, and Colonel Hugh Grange.

were ranked in three orders: Masters, — who were either English, Scots, or Irish, with some few Dutch, French, and Portuguese Jews, — white servants, and slaves. The white servants were either by covenant or purchase; there were two sorts, — such as sold themselves in England, Scotland, or Ireland for four years or more, and such as were transported by the government of England for capital crimes. The gentlemen of Barbadoes scorned, he says, to employ any of the latter sort until the late sickness — a pestilential distemper in 1692, supposed to have been introduced by soldiers returning from an expedition to the Leeward Islands, which swept away many of the people, including numbers of negroes — had reduced them to great want of hands. Of the other white servants, poor men's children whether driven thither by necessity or discontent, many, behaving themselves honestly and laboriously, had raised themselves, after their servitudes were over, to be masters of plantations.

The masters, merchants, and planters lived like little sovereigns on their plantations: they had their servants of the household and those of the field; their tables were spread every day with variety of nice dishes, and their attendants were more numerous than many of the nobility in England; their equipages were rich; their liveries fine, their coaches and horses the same; their chairs, chaises, and all the conveniences of their travelling magnificent. The most wealthy of them, besides their land equipages, had their pleasure boats to make the tour of the island in and sloops to convey their goods to and from the Bridge (Bridge Town).

Their dress and that of their ladies was fashionable and courtly, and having been generally bred in London, their behavior was genteel and polite: in which, says the author, they had the advantage of most of the country

gentlemen of England, who, living at a distance from London, frequent the world very little, and from conversing always with their dogs, horses, and rude peasants acquire an air suitable to their society. The gentlemen of Barbadoes were civil, generous, hospitable, and very sociable.

"In short," says Oldmixon, "the inhabitants of Barbadoes live as plentifully and some of them as luxuriously as any in the world. They have everything that is requisite for pomp and luxury: they are absolute lords of all things — life and limb of their servants excepted — within their own territory, and some of them have no less than 700 or 800 negroes, who are themselves and their posterity their slaves forever."[1]

James Anthony Froude, in his work on "The English in the West Indies," gives a similar description of the society of Barbadoes, taken from an account of Père Labat, a French missionary who visited the island about the time of which we write. The contemporaneous descriptions of Labat of Barbadoes and Lawson of Carolina correspond in a remarkable manner. Lawson found no such brilliant jewellers and silversmith shops in Charles Town as Labat did in Bridge Town, for Barbadoes was much older and as yet much richer, but the society they describe is the same. The merchants of Carolina, says Lawson, are fair and frank traders. The gentlemen seated in the country are very courteous, live very nobly in their houses, and give very genteel entertainments to all strangers and others that come to visit them. Both seem equally struck with the well-disciplined militia, especially their horse. In Bridge Town a review was held for Labat, in which 500 gentlemen turned out, admirably mounted and armed.

Lawson says that the horsemen in Carolina are mostly

[1] *British Empire in Am.*, vol. II, 128.

gentlemen and well mounted and the best in America. Their officers, both infantry and cavalry, generally appear in scarlet mountings as rich as in most regiments belonging to the Crown, which, he observes, shows the richness and grandeur of the colony.[1]

The Barbadian settlers thus brought with them a colonial society already to a considerable degree formed, and with their slaves they brought the slave code as it existed in Barbadoes. Under this code the condition of the black slave was only worse than that of the white servants because their servitude was perpetual. Indeed, the negro slave had the great security that if he died his owner lost his pecuniary value; whereas by the death of a white indented servant the loss was only that of two or three years' wages. The master was accordingly rendered more careful of his slaves than of hired servants.

The Proprietors, as we have seen, had offered inducements to those who would bring out white servants, and others had been sent by the government, condemned to servitude as punishment for crimes or political offences. Owing, however, to the large numbers of negro slaves imported into the colony, not many white servants were induced to come of their own accord, and fortunately fewer criminals were sent to South Carolina than to other colonies.

At the time of the settlement of Carolina negro slavery was a recognized institution in all the European colonies; it was assumed that it would exist also in Carolina. Four of the Proprietors of Carolina, — the Earl of Shaftesbury, Earl Craven, Sir George Carteret, and Sir Peter Colleton, — Ralph Marshall and John Portman, who came out with Sayle, were members of the Royal African Company

[1] *The English in the West Indies* (Froude), 27; *A New Voyage to Carolina* (Lawson), 3.

with James, then Duke of York, which was chartered and given the sole trade in slaves on the African coast.[1] We find it provided by the philosopher Locke in his Constitutions that "every freeman of Carolina shall have absolute power and authority over his negro slaves of what opinion or religion soever." The significance of this provision was not in recognition of slavery as an institution of the province — that was assumed; nor yet in the absolute power it proposed to give to the freeman over his slave, great as that was, but in the last words, wherein it was intended to provide against the effect of the possible conversion and baptism of the negroes. A doubt had arisen and prevailed extensively upon this point. The idea was that as the enslavement of negroes was chiefly justified on the ground that they were heathen, upon their becoming Christians they would be released from bondage. It is curious to observe the effect of this scruple, which appears to have been honestly entertained. Some Christian masters, rather than offend their consciences by holding fellow-Christians in slavery, withheld the Gospel from these people lest they might hear and believe and be converted, and become as one of themselves. We shall see hereafter how Church and State agreed in dispelling this idea.[2]

The first statutory provision relating to slaves in Carolina was an act in 1686 prohibiting trading with them, either white or black, servants or slaves. The facility with which goods and provisions could be stolen by servants and slaves having access at all times to their masters' stores was the cause of this provision. No one was allowed to buy or sell, bargain or contract, with any of

[1] *Calendar State Papers, Colonial* (Sainsbury), 1669–74, 934.

[2] See article entitled "Slavery in the Province of South Carolina, 1670–1770," by Edward McCrady. *Annual Report of the American Hist. Asso.*, 1895, 631–673.

them without their masters' privity and consent.[1] The next, an act of 1687, related to white servants coming from Europe or other parts of America. To prevent frauds between masters and servants arriving in the province without indentures or contracts, it provided that those coming from Europe under the age of ten years should serve until they arrived at the age of twenty-one years; under the age of fifteen years and above ten should serve seven years; above the age of fifteen years should serve five years. A less time of service was prescribed for those coming from Barbadoes or other parts of America.[2] In 1691 these acts were revised. Servants absenting themselves were required to serve additional time for every day of absence. On the other hand, it was provided that if any master, under the pretext of correction, unreasonably whipped or abused a servant, the Grand Council might set such servant free or make such order as they should deem just; so, too, the master was required to provide good and wholesome food for his servants under penalty.[3]

In the year 1688 two important enactments had been made in Barbadoes in regard to negro slaves. The first was an act of April 29, declaring negro slaves real estate and not chattels, — and providing that they should descend to the heir and widow of an intestate according to the manner and custom of lands of inheritance held in fee-simple.[4] The second was a revision of the slave code of the island of August 8th.[5] These acts formed the basis of the first code upon the subject in South Caro-

[1] *Statutes of So. Ca.*, vol. II, 22.

[2] *Ibid.*, 30. [3] *Ibid.*, 52.

[4] *The Laws of Barbadoes*, London, 1694 (Act No. 42), Library Hist. Soc., Penn.

[5] *Ibid.*, No. 82.

lina. In 1690, in Sothell's administration, an act was passed, the draft of which was evidently made upon these Barbadian enactments. Indeed, the South Carolina statutes follow and adopt not only the main feature of these laws, but the phraseology as well.[1]

The provision in regard to the devolution of negro property, *i.e.* that in cases of intestacies it should descend as real estate, and not as personal property, was adopted in a modified form. After providing that all slaves should have convenient clothes, and that no slave should be freed by becoming a Christian, the statute went on to enact that slaves should not be resorted to in the first instance for the payment of debt, but only when other goods and chattels of the debtor were not sufficient to satisfy the demand of the creditor; that then only so many as were necessary for the purpose should be sold; and that in the settlement of estates negroes and slaves should be accounted for as *freehold*. Negroes were nevertheless always returned as personal property in the inventories of intestates' estates, as the records of the Ordinary's office in Charleston abundantly show. This condition continued until 1740, when it was declared that negroes and Indian slaves should be reputed and adjudged in law to be chattels personal.[2]

The principal other provisions of this code were the restriction of the slave to the limits of his master's plantation or premises except when accompanying the master, or with his ticket of leave in writing upon each occasion of his going abroad: the severe punishment of slaves for the

[1] *Statutes of So. Ca.*, vol. VII, 343, 344.

[2] *Ibid.*, 347.

Under the provisions of the revised code of 1705 of Virginia, the slave was also declared to be real estate unless held by a merchant who was seeking to sell him, in which case he was decided to be personalty. Bruce's *Economic Hist. of Va.*, vol. II, 98.

striking of a white man, extending to branding, burning mutilation, and even death upon repeated offences; the arrest and commitment of runaways: the constant search of the houses of slaves for arms, which they were not allowed to have, and for stolen goods; the mode of trial of slaves for crimes and misdemeanors, *i.e.* by a court of two justices and three freeholders instead of by jury, and the punishments prescribed, which were not, in general, greater than those inflicted upon white men for similar offences.

The worst feature of the code was the inadequate protection afforded by the terms of the statute to the life and limb of the slave. The provision in regard to this, was that if any slave, by punishment from the owner for running away or other offence, should suffer in life and limb, no person should be liable to the law for the same; but if any one out of wilfulness, wantonness, or bloody-mindedness should kill a slave, upon conviction he should suffer three months' imprisonment and pay the sum of £50 to the owner; a servant killing a slave was to be whipped nine and thirty lashes, and to serve the master of the slave four years; a person was not to be punished for killing a slave stealing in his house, if the slave refused to submit.[1] These provisions practically placed the life or death of the slave in the hands of the master. But this terrible power was in a great measure neutralized and controlled by the master's interest. To kill or injure his slave, whether for doing so the master was punished or exculpated by the law, was to impose upon himself a pecuniary fine to the extent of the slave's value. The effective motive of interest came into the protection of the negro's life. It has been pointed out that in Barbadoes under this law, while the blacks four times outnumbered the whites, homicide among the whites, though

[1] *Statutes of So. Ca.*, vol. VII, 343–347.

of rare occurrence and punished in the same exemplary manner as at the Old Bailey, was of more frequent occurrence than the murder of a slave by a freeman.[1]

Such were the main features of the slave code brought over by the Barbadians and adopted by the Carolinians. However harsh they may appear to the reader of the present day, it must be remembered that the penal codes under which white men then lived in England and elsewhere were scarcely less so.[2] Granting the subordination of slavery, the prohibition of slaves' going beyond the limits of their masters' plantations was no more than that applied to soldiers and sailors, whose liberties do not extend beyond the camp, barrack, or ship. So, too, in regard to the provision as to a slave striking a white man. "Is the soldier who fights the battle of his country and lifts his hand against his commanding officer," asks the historian of Barbadoes, "more criminal or punished with less severity than the audacious slave who strikes his master? Is the gallant sailor who upholds the nation's glory and protects it by his valor and prowess subject to a milder punishment, if in a moment of unguarded resentment he should strike the officer whose orders he is bound to obey? No: an ignominious death awaits the rash offender; his former services are forgotten and he is consigned to a premature grave for his temerity, while the slave lives to repeat his crime and exult in his audacity."[3]

The scheme of the Court of Justices and Freeholders was taken also from the Barbadian act. And in regard to that statute it was observed that the form of trial it provided was in all respects competent to the administration of justice. "and candid men," continues the author

[1] *Hist. of Barbadoes* (Poyer), 134, 135.

[2] Blackstone's *Com.*, vol. IV (Sharswood ed.), 377.

[3] *The History of Barbadoes* (Poyer), 135.

just quoted, "may probably think that a tribunal consisting of two magistrates and three jurymen may be as capable of deciding justly as the military and naval courts martial which are allowed to decide upon the lives of freemen."[1] In this connection it may be remarked in passing that in the whole system of government brought over from Barbadoes, with its interwoven military organization and slavery, there is a strong flavor and element of martial law — thus the chief executive officer of the court was not styled High Sheriff as Locke's Constitutions proposed, but Provost Marshal.

[1] *The History of Barbadoes* (Poyer), 140.

CHAPTER XVI

1700–1703

During the first thirty years of the province, the politics of the colony had turned upon the recognition or repudiation of the Fundamental Constitutions of Locke: the terms and regulations of the grants of land; the collection of quit-rents; and on the one hand the determined struggle of the people in Carolina to control their own affairs, and on the other the languid efforts of the distant Proprietors, exerted in a desultory and careless manner, to maintain their authority. How impotent the Proprietors were, Sothell had shown when he assumed the government without his co-proprietors' consent and held it in defiance of their wishes until by his conduct he had disgusted the people whose cause he had assumed to espouse.

The original colonists had passed away with the old century and new men appeared to control the political affairs of the province.

The Fundamental Constitutions were soon to be practically abandoned, save as a harmless amusement of the Proprietors in bestowing some few more provincial titles. But the colonists, more restless than ever under the inefficient rule of the Proprietors, were encouraged by the government at home to oppose it. With new men, new questions were to arise and new policies to be pursued; to end in the overthrow of the Proprietary Government and the surrender of the charter. These questions and policies were all

involved in those of the mother country, and to understand the coming events in Carolina, we must take a brief glance at the affairs in England out of which they grew.

For Europe in general the Peace of Ryswick of 1697 was little more than a truce, — a truce to end in the war of the Spanish succession. The accession of the Duke of Anjou, the grandson of Louis XIV, to the Crown of Spain might not, of itself, have aroused popular feeling in England to such an extent as to warrant William in declaring war, had not Louis XIV taken the occasion to expel the Dutch garrisons from the fortress of the Netherlands, which they had occupied since that treaty, and to replace them in February, 1701, by French troops. The people of England at this time were utterly averse to war. But bitter as the strife was between Whig and Tory, there were two things upon which Whig and Tory were agreed: neither would suffer France to occupy the Spanish Netherlands; neither would endure a French attack on the Protestant succession which the Revolution of 1688 had established. The seizure of the Dutch barrier, and the disclosure of a new Jacobite plot, brought the Parliament of 1701, a Parliament mainly of Tories, at once to William's support in his demand for a withdrawal of the French. While England was still clinging desperately to the hope of peace, Louis, who had acknowledged William as King and pledged himself to oppose all attacks on his throne, in September, 1701, entered the bedchamber at St. Germain's where James the Second was breathing his last, and promised to acknowledge his son, at his death, as King of England, Scotland, and Ireland. This act of the French King put an end to any question between Whig and Tory. Every Englishman supported William in his open resentment of the insult. The Grand Alliance was formed September, 1701, against France and Spain; and the new

Parliament, which met in 1702, though still Tory, was now as much for war as the Whigs — an army was immediately raised, and Marlborough was sent with it to Flanders. William died on the 8th of March, 1702, and upon the accession of Anne war was at once begun.

The victory of Blenheim, on the 13th of August, 1704, aided to bring about a great change in the political aspect of affairs. The Tories, who were now in power, were pressing hard the defeated Whigs; the Whigs, however, still controlled the House of Lords. But the Tories, if willing to support the war abroad, were resolved to use the accession of a Stuart, or Queen Anne, to secure their own power at home. They resolved, therefore, to make a fresh attempt to create a permanent Tory majority in the Commons by excluding nonconformists from the municipal corporations which returned the bulk of the borough members, whose political tendencies were, for the most part, Whig. The test which prevailed, of receiving the sacrament according to the ritual of the Church of England, effective as it was against Roman Catholics, was not so against Protestant dissenters, who evaded it by partaking of the communion in a church once in a year, and subsequently attending their own chapels; in doing which, they were protected by the Toleration Act. This was called "occasional conformity"; and it was against this practice that the Tories introduced a test which, by excluding the nonconformists, would have given them the command of the boroughs. But it was rejected by the Whig House of Lords as often as it was sent up to them.[1]

These great affairs in Europe were all reflected in America, and the course of events in Carolina closely followed those in England.

Among the leaders who now appeared were some of

[1] Green's *Hist. of the English People*, vol. IV, 70–89.

great ability. Moore and Daniel, though not among the first settlers, had each been in the province for some years and had already taken an active part in its affairs. The more recent comers who were to be prominent in the stirring events to follow were Sir Nathaniel Johnson, Nicholas Trott, William Rhett, Edmund Bellinger, and John Barnwell.

With James Moore we have already had some casual acquaintance as one of the leaders of the opposition to Colleton, and whom, with Robert Daniel, the Proprietors excluded from their pardon, and more lately as an adventurous explorer of the province, who, though again in the Council of the Proprietors, was ready, according to Randolph, to betray their interest. But Randolph, it must be remembered, was reckless in his charges against the best of the colonists, not only in Carolina, but in every other province. This James Moore was supposed to be the son of Roger Moore, one of the leaders of the rebellion in Ireland in 1641, and an inheritor of the rebellious blood of his sire. He had married a daughter of Sir John Yeamans, by whom he had a large family.[1] He was one of "the Goose Creek men" against whom Ludwell had been warned.

Robert Daniel had come from Barbadoes in 1679. He had first appeared in the struggle against Colleton in 1680; and though, with Moore, he had been excluded from the Proprietors' pardon, had so recovered his position with their Lordships that we find him in 1698 in London in conference with them upon a new set of Constitutions for the regulation of the government, and coming back bringing not only these new Constitutions, but a patent appointing him Landgrave.

Sir Nathaniel Johnson was altogether the person of

[1] Wheeler's *Reminiscences of No. Ca.*, 49.

highest position who had yet come into the province. He was of Keeblesworth, in the bishopric of Durham, had been a distinguished soldier and a member of Parliament. He was a faithful follower and supporter of the Stuarts, and at the time of the abdication of James II was Governor of the Leeward Islands, residing at Nevis, then the most flourishing of that group of islands. Refusing to take the oaths to William and Mary, he had been removed from his position, and had come to Carolina.[1] Here he had devoted himself to the development of industries in the province, especially, as we have seen, to the making of silk, and had also greatly encouraged the planters in the cultivation of rice and other agricultural experiments. These enterprises and his military character had given him great popularity. For some reason, it has appeared, he was viewed with jealousy by the Proprietors upon his first coming into the province.

Nicholas Trott[2] was a lawyer of London of great learning and unbounded ambition, and withal of little principle. He had been sent by the Proprietors of Carolina to Providence (now Nassau), one of the Bahama Islands within their grant, to supplant Cadwallader Jones, the Governor there, against whom there were charges of misgovernment and high treason. Randolph accused Trott of harboring and encouraging pirates, as Jones, he charged, had done before him. But this was Randolph's common charge against all the Governors of the colonies. Trott was, however, also complained of to King William because of his arbitrary conduct, but he remained Gov-

[1] *British Empire in Am.*, vol. II, 198, 244.

[2] "The Trotts of Bugeles were worshipful men in the time of Charles the first. Mathew Trott was register of the Court of the Commissary of Suffolk and a Nicholas Trott had the living of Barnsfield in 1653." — *Introductory Memoir to the Diary and Autobiography of Edmund Bohun, Esq.*, xxvi.

ernor of Providence until 1697, when he was recalled,[1] and upon his return to England was appointed Attorney General of Carolina, to which place he came in 1698.

William Rhett is said to have been born in London in 1666, and to have come to Carolina in 1694 with his wife and one child.[2] He was a seaman, for we find on record a power of attorney, dated September 7, 1699, from John and Nicholas Trott of London to Governor Blake and others in Carolina, to collect from Captain William Rhett "all such sums of money goods wares merchandise negro slaves, gold, elephants teeth wax effects and things whatsoever" which the said Captain William Rhett had in his hands "on account of their being part owners of the ship *Providence* burthen 150 tons, whereof the said William Rhett is commander."[3] Rhett was a man of violent temper, but of great courage and ability, and was to render the colony the most brilliant services.

Daniel, Johnson, Trott, and Rhett were all strong and high churchmen. Edmund Bellinger first appears as deputy of Thomas Amy in 1697, then as Surveyor General and Landgrave in 1698: having with Robert Daniel been in London the latter year in consultation with the Proprietors upon the last draft of the Constitutions.[4] John Barnwell was a gentleman of Dublin, of influential connections, who had come to Carolina led by a spirit of adventure, and soon became the Deputy Secretary of the colony.

Possessed of great abilities and clothed with extensive powers, Mr. Trott came recommended especially to Governor Blake, and immediately attained an influential posi-

[1] *British Empire in Am.*, vol. I, 476, vol. II, 428–430; *Colonial Records of No. Ca.*, vol. I, 466.

[2] Ramsay's *Hist. of So. Ca.*, vol. II, 507.

[3] Probate office, Charleston, *Book Miscellaneous Records*, 1694–1704.

[4] *Coll. Hist. Soc. of So. Ca.*, vol. I, 144, 145.

tion. Notwithstanding his official character as Attorney General under the Proprietors, he appears to have been elected to the Assembly as representing the "country party" as it was termed, that is, the party of dissenters who were principally located in Colleton County. Here he at once exhibited the antagonism which marked his subsequent career. The Governor and Council on the one hand, and the Assembly or House of Commons on the other, had now separated and sat in distinct houses, communicating with each other by messengers and committees of conference. In a conference of committees from the Council and Assembly February 19, 1700, on a bill regulating the Court of Admiralty, Governor Blake, who presided, was insisting upon a certain point when Mr. Trott interrupted him with the remark: "With submission to your honor, you are too fast; we are not come to that point yet," and without disclaiming an intention to offend, declared in reply to such a charge his right to freedom of speech, since he recognized Mr. Blake, in this instance, only as one of a committee, and not in his character of a Proprietor and Governor of the province. The conference was dissolved, and Blake refused to meet the committee again if Trott should be present. The matter was referred to the Assembly, and they resolved "that any manager appointed by this house have freedom of speech as it is their undoubted right."[1] In this first controversy, however rude Trott may have been, and negligent of the courtesy due the Governor, it cannot be questioned that the Assembly was right in standing up to its representative on a committee of conference. If the Governor had condescended to act as one of such a committee on the part of the Council, he should not have expected to carry there the overawing dignity of his official

[1] *Hist. Sketches of So. Ca.* (Rivers), 102.

character. He was there, as the Assembly correctly held, merely as one of his Council, with whom their representative had the right freely to discuss the matter in hand unembarrassed by the official character of the Governor.

Another question now also arose between the Governor and his Council on the one side and the Assembly on the other. Upon the death of Mr. Ely, the Receiver General, the Governor and Council claimed the privilege of nominating his successor until the pleasure of the Proprietors was known. The Assembly, on the other hand, insisted that it belonged to them. This occasioned several messages between the two houses, and much altercation ensued. The Upper House appointed the man of their choice; the Lower House resolved that the person so appointed was no public receiver, and that whoever should presume to pay money to him as such, should be deemed an infringer of the Assembly and an enemy of the country. Trott now made the point that the Governor and Council could not be called an Upper House, though they thus styled themselves, as they differed in the most essential circumstances from the House of Lords in England, and persuaded the Assembly to call them "the Proprietors' deputies." This question, as to the character of the Governor's Councils in the enactment of laws, thus started, continued not only through the Proprietary, but through the Royal Government as well, and was the subject of a bitter controversy between William Henry Drayton and Sir Egerton Leigh, when the Revolution of 1776 put an end to the discussion. But in the end, as at the beginning, it was one more of the name or title of the body than one of substance. The Governor and Council, from an early period to the end of the Royal Government, sat as a separate body, without the consent of which no law could be passed. Trott himself had first recognized it as

such when, as a member of a committee of conference, he had met a like committee of the Council. His conduct to Governor Blake was justifiable, if at all, only on that very ground — and on no other.

But Trott had already given other cause of offence. He was not only Attorney General, but was naval officer as well, and had incurred Governor Blake's displeasure because of his alleged partiality as the prosecuting officer of the port, and upon this charge Blake suspended him from exercising the function of either office.[1] Randolph, the King's Collector of Customs, however, who had not long before reported the Bahama Islands as under Trott's administration a common retreat for pirates, now espouses his cause and writes to the Lords Commissioners of Trade charging a conspiracy between Governor Blake, his brother-in-law Morton, the Judge of Admiralty, and Logan and Bellinger, in seizing and condemning vessels, and buying them in upon sale at half their value; and declares that Nicholas Trott was turned out of his place — though he had the commission of his Majesty's customs as well as that of the Proprietors — because he was diligent and faithful to his trust, and to make room for a creature of the Governor.[2]

At this juncture at the close of the year 1700,[3] Governor Blake died, and Trott had no difficulty in persuading the next Assembly to resolve that there were no sufficient reasons for his suspension and to request his reinstatement, which was granted, though with some reluctance by his friend, the successor of Blake; this hesitation was occasioned, it was charged, by Trott's opposition to too flagrant

[1] *Hist. Sketches of So. Ca.* (Rivers), 192.

[2] *Coll. Hist. Soc. of So. Ca.*, vol. I, 215, 216; *Colonial Records of No. Ca.*, vol. I, 545.

[3] Hewatt's *Hist. of So. Ca.*, vol. I, 144.

a scheme of the new Governor to turn to his private advantage the emoluments of the Indian trade.[1]

Upon the death of Blake, Joseph Morton, as the eldest Landgrave present, was entitled to the administration under the Fundamental Constitutions, and whether these Constitutions were or were not binding, a majority of the Council then present elected Morton until the pleasure of the Proprietors could be known. But James Moore, who was one of the body, objected to Morton's election upon the ground that he was ineligible, as he held an office under the King, *i.e.* Judge of Admiralty. To this objection it was answered by Mr. Morton's friends, "That it did not appear by the charter, the Proprietaries can empower any one to try persons for acts committed out of their dominions which is necessary for a judge." And that as it was necessary that some one in the colony should possess the power, it should not disqualify Mr. Morton from being Governor as well while he was Judge. The objection, however, prevailed. Morton was set aside, and Moore was chosen. Morton complained to the Proprietors, but their Lordships did not interfere in his behalf.[2] Indeed, they had themselves, the year before, expressed surprise that Morton, holding the commission as Judge of Admiralty, should have taken another, though from the King:[3] and were probably not displeased that he had suffered for it without their own action. Morton does not appear ever to have been a favorite with the Proprietors. They had made him a Landgrave and Governor in 1682 for bringing out a number of immigrants, but they had been very curt to him in their communications, and had soon sent out a stranger to

[1] *Hist. Sketches of So. Ca.* (Rivers), 192.

[2] Oldmixon, *British Empire in Am.*, vol. I, 474; Carroll's *Coll.*, vol. II, 418; *Hist. Sketches of So. Ca.* (Rivers), 194.

[3] *Public Records of So. Ca.*, vol. IV, 100.

relieve him. He had before been chosen by the Council in an emergency, upon the retirement of Governor West in 1685, but had again been promptly relieved by the Proprietors, who sent out Colleton instead in 1686. Had the Proprietors known that Moore had been endeavoring to betray their interests to the King through Randolph, they may perhaps have overlooked Morton's taking a commission from his Majesty, and have allowed him to serve for a while as Governor for a third time.

Moore is said at this time to have been in great debt and pecuniary want, and determined if possible to improve his desperate circumstances during his lease of power, which he apprehended would be of but short duration. He designed, therefore, to make a considerable profit out of the Indian trade while he had the opportunity, and for the purpose had a bill brought into the Assembly for regulating that business, which, had it passed, would have given him a monopoly. But Trott, by his astuteness, saw at once through the scheme and, for purposes of his own, defeated it. Upon this, Moore, finding the Assembly not amenable to his designs, dissolved it.

A new Assembly was called and every exertion was made to control its composition. The election took place in November, 1701, and the dissenters of Colleton County charged that unqualified aliens, *i.e.* French Protestants, strangers, paupers, servants, and even free negroes, were allowed to vote. As soon as the Assembly met, petitions were presented by the defeated candidates praying to be heard against the validity of the Sheriff's returns. The Assembly, most of whom were incorruptible, and apparently not under Moore's control, promptly resolved to enter into an immediate investigation. To prevent this they were prorogued from time to time. Being summoned in April, 1702, the busiest time with planters, they

met and adjourned till the 5th of May. This Governor Moore angrily imputed to a greater regard to private than to the public welfare, and prorogued them till August.[1]

In the intervals reports were circulated that Colonel Daniel had instigated Moore to proclaim martial law if the Assembly should continue to exhibit a refractory spirit, and when the Assembly met recrimination immediately began. If the public welfare had required their counsels, why had the Governor through pique prorogued them till August? Was it that he designed to menace them with coercion? "Oh, how is the sacred law profaned," it was said, "when joined with martial! Have you forgotten your honor's own noble endeavor to vindicate our liberties when Colleton set up his arbitrary rule?"[2]

Before the prorogation of the Assembly, Mr. Trott and Mr. Higginton had been appointed a committee to supervise the last set of Constitutions sent out by the Proprietors with Colonel Daniel. On the 10th of August, 1702, these gentlemen made this incoherent report:[3] —

"That the constitutions of which we are to consider make and set up an estate different and distinguished from the Lords Proprietors, and the Common's House without whose consent no law shall or may be enacted, which is called in the said constitutions the upper house, consisting of the Landgraves and Casiques who being created by their Lordships' second letters patents are also a middle state between the Lords and the Commons; which constitution we cannot find that it anywayes contradicts the said Charter.

"We find that the 22d article in the said Constitutions manifestly interferes with our Jury acts now in force: That all other articles in the constitutions are as neare and agreable as may be to the said charter or at least no wayes repugnant to it."

In this inconsistent and contradictory report, Trott

[1] *Hist. Sketches of So. Ca.* (Rivers), 196.

[2] *Ibid.*

[3] *Statutes of So. Ca.*, vol. I, 41; MSS. *Journal.*

points out that the Constitutions made and set up an estate consisting of Landgraves and Caciques, called an Upper House, without the consent of the Commons House, without which no law could be enacted under the charter; and yet reports that the committee cannot find that the Constitutions anyways contradict that instrument. That one of the articles of the Constitutions interfere with the jury acts; but all other articles are as near and agreeable to the charter as may be, or at least not repugnant to it. What is the meaning of this? The implication is that if the Constitutions are inconsistent with the jury act, the Constitutions must give way; and yet, though contradicting the charter in setting up a third estate without the consent of the Commons, they are not repugnant to it.

This was his formal report; but the dissenters of Colleton, in an address, complained to the Proprietors that when the House came to consider the Constitutions, "they were opposed by Mr. Trott & Mr. Howes and others, the said Governor's creatures & several reflectory words used by the said *Trott & Howes* concerning them, exposing the constitutions as ridiculous and void in themselves; thereby endeavoring (notwithstanding Your Lordship's care of us) to keep the people in an unsettled condition, that from time to time they might the more easily be imposed on by them."[1]

It is as difficult to suppress a smile upon reading the address of the dissenters of Colleton on the one hand, as upon reading the sophistical report of Trott on the other. Trott's insincerity was equalled by that of the address. Could the Proprietors really believe that the dissenters were now in earnest in desiring the imposition of the Fundamental Constitutions, which they had so persistently

[1] "Address of Members of Colleton Co.," *Hist. Sketches of So. Ca.* (Rivers), Appendix, 457.

resisted, and which Constitutions, while professing religious freedom, prescribed that the General Assembly should take care of the building of churches and the public maintenance of divines of the Church of England, "which being the only true and orthodox, and the national religion of all the King's dominion, is also of Carolina," etc.

The proceedings of the House upon the reports are scarcely less contradictory than the report itself. The day after it had been presented, the House entered into a debate upon it, and ordered the Constitutions themselves to be read. Then the question was raised as to the effect of the deaths of the Proprietors who had signed them. "The question is put whether the house is of opinion that the constitutions now before us are valid, being enacted by us since severall of the proprietors are dead who signed the same. Carried in the affirmative."[1] It is not easy to understand this entry, as none of the Constitutions had ever been enacted by the Assembly; and but one of the Proprietors who signed the last set brought out by Colonel Daniel had since died, *i.e.* the Earl of Bath. It was then "ordered that the said constitutions be read again, and debated paragraph by paragraph to morrow morning." They were accordingly so read and debated the next day, September 1, whereupon the House refused to order them to a second reading.[2]

When Sir Nathaniel Johnson was made Governor the year after, he was instructed to obtain, if he could, the assent of the Assembly to such parts of the Constitutions as he should deem advisable. But nothing more was done in the matter, and this was practically the last of the famous Fundamental Laws proposed by Locke, except the occasional appointment of Landgraves or Caciques.

In the midst of these discussions the doors of the As-

[1] *Statutes of So. Ca.*, vol. I, 42. [2] *Ibid.*

sembly were suddenly closed, and when they were opened, an act was passed for raising the sum of £2000 for carrying on an expedition against St. Augustine, "and for appointing the number of men and ships to be made use of, and the manner and method of going against the said place."[1] Our only account of what took place in this secret session is that given in a paper from which quotation has already been made, purporting to be a "Representation and Address" of several members returned for Colleton County and other inhabitants of the province, "and signed by 150 of the principal inhabitants." The paper is an address to the Lords Proprietors, complaining of the Governor generally, and especially of their treatment in a riot which ensued upon the withdrawal of the Colleton members from the Assembly. It is loosely and crudely drawn, is inaccurate in its statements, and reckless in its imputations of motives. Oldmixon, the author of *The British Empire in America*, however, unhesitatingly adopts its account, and warmly espouses its cause: and in this he has been followed, more or less, by other historians.[2] But, though claiming to be a churchman, Oldmixon was a member of the Blake family, as a tutor, and was a thorough partisan of the interest of which that family was the head.

The address charges that the expedition was set on foot by the Governor and his adherents for no other purpose than catching and making slaves of Indians for private advantage: that for this purpose the Governor had before granted commissions to Anthony Dodsworth, Robert Mackoone, and others to kill, destroy, and capture as many Indians as they possibly could, the profit and produce of

[1] *Statutes*, vol. II, 189.

[2] *British Empire in Am.*, vol. I, 476; Hewatt's *Hist. of So. Ca.*, vol. I, 152; *Hist. Sketches of So. Ca.* (Rivers), 199.

which capture of Indians were to be turned to the Governor's private account. That if any one in the Assembly undertook to speak against the expedition, and to show how unprepared the colonists were at that time for such an attempt, he was reviled and affronted as an enemy and traitor to his country.[1]

It is not at all improbable that the debate in the Assembly was conducted with warmth, and caused great excitement. It may well be imagined that strong and bitter words were used against those who were opposing the expedition, especially if in their opposition they had been bold enough to impute the motives to the Governor, with which they afterwards charged him in their address to the Proprietors. We remember how bitterly all the colonists had resented the suppression by Colleton of the expedition in 1686, as contrary to the honor of the English nation. They had been prevented and forbidden, at that time, from an attempt upon the Spanish post, because it was said England and Spain were nominally at peace. But that reason did not now exist. "Queen Anne's War" had actually begun, and that alone presented an opportunity of striking a blow at that pestilential spot held by mongrel Spaniards, as a constant threat to the provinces.

But the cause of war upon St. Augustine at this time was much greater and more immediate than the mere fact of hostilities between England and Spain; and that cause was not alluded to in the address of the Colleton party. In the report of a committee of the Commons upon Oglethorpe's expedition, made forty years after the events we are now considering, a sketch is given of two previous invasions of Carolina from St. Augustine, and in this sketch we find the occasion of the present movement against that place. From this report it appears that in

[1] *Hist. Sketches of So. Ca.* (Rivers), Appendix, 456.

1702, before Queen Anne's declaration of war was known in the province, the Spaniards had formed the design again to fall upon the Carolina settlement by land at the head of 900 Apalatchee Indians. The Creek Indians, in friendship with the Carolinians, coming to a knowledge of this intended invasion, informed the traders, but not before the Spaniards' expedition was on its march. The Carolina traders, instead of retreating, however, roused the Creeks to resistance and, collecting 500 men, headed them, and went out to meet the invaders. The hostile parties met one evening on the side of Flint River, a branch of the Chattahoochee, in Georgia. In the morning just before daybreak, at an hour when Indians were accustomed to make their attacks, the Creeks, stirring up their fires, drew back at a little distance, leaving their blankets by the fires in the order in which they had slept. As was expected, the Spaniards and Apalatcheans, coming to the attack, ran in and fired upon the blankets, whereupon the Creeks, rushing forth from their retreat, fell on them, killed, and took the greater part, entirely routing them.[1] It was upon this provocation and renewed invasion by the Spaniards, that it was deemed best to take the offensive and to endeavor, if possible, to wipe out this constant source of menace and danger to the province.

Rivers suggests that it is reasonable to suppose that there was some connection between this affair and the charge against the Governor of granting to irresponsible persons the power to set upon Indians who were not in open hostility against the colonists.[2]

Whatever opposition to the expedition was made in the Assembly was soon overcome, and £2000 were voted to

[1] Carroll's *Coll.*, vol. II, 348.

[2] *Hist. Sketches of So. Ca.* (Rivers), 199, 200.

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